

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S REVISED TRANSCRIPT OF PUBLIC HEARING

Phoenix, Arizona

March 2, 2006

9:30 a.m.

(Original)

Reported By:

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Certified Reporter (AZ 50127)

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on March 2,
 3 2006, at the State of Arizona, Clean Elections
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,
 5 Arizona, in the presence of the following Board members:
 6 Ms. Marcia Busching, Chairperson
 7 Mr. Gary Scaramazzo
 8 Ms. Ermila Jolley (Teleconference)
 9 Mr. Carl Kunasek
 10
 11 OTHERS PRESENT:
 12 Mr. Todd Lang, Executive Director
 13 Ms. Paula Ortiz, Executive Assistant
 14 Ms. Colleen McGee, Fiscal Service Manager
 15 Mr. Michael Becker, Voter Education Manager
 16 Ms. Genevra Richardson, Campaign Finance
 17 Manager
 18 Ms. Christina Murphy, Administrative Assistant
 19 III
 20 Ms. Cindy Stutesman, Administrative Assistant
 21 II
 22 Ms. Diana Varela, Assistant Attorney General
 23 Ms. Barbara Lubin, Clean Elections Institute
 24 Ms. Meredith Smyth, OMA
 25 Mr. Richard Mays, Citizen
 Ms. Lauren Lowe, Citizen
 Ms. Barbara Klein, League of Women Voters
 Ms. Kim Demarchi, Citizen
 Ms. Jan Brewer, Secretary of State
 Mr. Ed Chauza, Deer Valley Pilots Association
 Ms. Nancy Read, Office of the Secretary
 Mr. Thomas Irvine, Citizen

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1 COMMISSIONER KUNASEK: Well, you might change
 2 your mind in a couple of months.
 3 CHAIRPERSON BUSCHING: I doubt it.
 4 COMMISSIONER KUNASEK: Thank you. Thank you
 5 very much.
 6 CHAIRPERSON BUSCHING: And we also have Mr.
 7 Dierks who has been appointed, but was unable to attend
 8 today and we hope that he will be able to join us in the
 9 future.
 10 With that, I'll move to Item Number III,
 11 approval of January 26th, 2006 Commission meeting
 12 minutes. Are there any additions or corrections?
 13 COMMISSIONER SCARAMAZZO: I would move to
 14 approve the January 26th, 2006 Commission meeting
 15 minutes as proposed.
 16 CHAIRPERSON BUSCHING: Is there a second?
 17 COMMISSIONER JOLLEY: I will second that.
 18 CHAIRPERSON BUSCHING: It's been moved by
 19 Commissioner Scaramazzo and seconded by Commissioner
 20 Jolley that the minutes of January 26th, 2006 be
 21 approved as prepared.
 22 And I just want to say to Ms. Miller that these
 23 are -- were excellent. I found absolutely no changes or
 24 corrections and I realize how difficult that can be.
 25 So, thank you very much.

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1 P R O C E E D I N G
 2
 3 CHAIRPERSON BUSCHING: Good morning, everybody.
 4 I'm Marcia Busching. I'm ready to declare this Citizens
 5 Clean Elections Commission meeting in order. The
 6 location is 1616 West Adams, Suite 110, Phoenix,
 7 Arizona. Today is Thursday, March 2nd, 2006 at 9:30
 8 a.m.
 9 I want to give notice that the Commission may
 10 vote to go into executive session, which will not be
 11 open to the public, for any item listed on the agenda
 12 for obtaining legal advice. And all matters on the
 13 agenda may be discussed, considered and are subject to
 14 action by the Commission.
 15 Second item on the agenda is the welcome to the
 16 new Commissioners. And I want to -- oh, Ermila is on,
 17 right?
 18 COMMISSIONER JOLLEY: Yes.
 19 CHAIRPERSON BUSCHING: Okay. Good. And I
 20 should note that Ermila Jolley is appearing by telephone
 21 today. We have Mr. Scaramazzo, our new commissioner Mr.
 22 Kunasek, and present in person. And welcome Mr.
 23 Kunasek. We look forward to your service and we're
 24 delighted to have you with all of your great background
 25 and experience.

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1 With that, the Chair will call for the
 2 question, all in favor say "aye."
 3 (Chorus of ayes.)
 4 CHAIRPERSON BUSCHING: Opposed, nay?
 5 Chair votes aye. Motion carries.
 6 The next item is Agenda Item IV, Executive
 7 Director's Report and personnel update.
 8 Mr. Lang.
 9 MR. LANG: Thank you, Madame Chair,
 10 Commissioners, good morning. And I'd too like to on
 11 behalf of the staff would like to welcome Commissioner
 12 Kunasek to our group. Thank you. Thank you for joining
 13 us.
 14 You see -- you have my report there. As noted
 15 in there, we've been monitoring all the legislative
 16 bills, Mike Becker and I have been attending all the
 17 hearings. If I can't go, he goes. So we've been down
 18 there to answer any questions the legislature may have.
 19 Only a few Clean Elections' bills were passed out and
 20 we're keeping close tabs on those bills and will keep
 21 you up to date as they move.
 22 Our -- The Arizona Government Information
 23 Technology Agency approved our IT plan for 2006. So,
 24 thank you to Colleen McGee for her good work on that.
 25 I spent last Wednesday and Thursday in West

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1 Virginia at the request of folks there to testify at
2 their legislative hearings, their senate hearings, their
3 senate finance committee hearings regarding proposed
4 Clean Election legislation in West Virginia. They
5 wanted to hear how it worked in Arizona and I gave them
6 the good news that in my opinion, it was working well in
7 Arizona. And they certainly seemed interested and had
8 lots of interesting questions, so that was worthwhile
9 and a good experience.

10 I also met the Secretary of State of Arizona
11 [sic]. I'm mean -- I've met her. Good to see you. And
12 the Secretary of State of West Virginia, a very nice
13 lady who had a lot of good insights how the Act will
14 work there.

15 We've been working with GRRC on our five-year
16 review. Geneva Richardson has been taking the lead on
17 that and it's subject to approval at the March 7th
18 meeting and everything looks good. So, that's good
19 news.

20 CHAIRPERSON BUSCHING: At the March 7th GRRC
21 meeting?

22 MR. LANG: GRRC meeting.

23 CHAIRPERSON BUSCHING: Okay.

24 MR. LANG: And we anticipate no problems there,
25 but we will of course let you know as soon as that's

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1 still looking to fill that position. There is a small
2 chance, as you know, under our -- under our personnel
3 tree, we could also hire an administrative counsel, an
4 attorney -- an in-house attorney effectively, instead of
5 a Deputy Director. I may decide to hire that position
6 instead although I think that's currently unlikely. I
7 still am planning to hire a Deputy Director.

8 But I thought since Commissioner Kunasek is
9 new, I thought it would be a good time to introduce him
10 to our staff since we have all them here. Our Campaign
11 Finance Manager is Geneva Richardson. If you can stand
12 up. Geneva has done a great job. She's been on the
13 job for about two years -- a little less than two years.
14 And she's doing a great job.

15 MS. RICHARDSON: Little less than one year.

16 MR. LANG: Mike Becker -- little less than one
17 year.

18 Mike -- Mike Becker --

19 MS. VARELA: Feels like 10 years to her.

20 MR. LANG: Is our Voter Education Manager.

21 COMMISSIONER KUNASEK: Met Mike yesterday.

22 MR. LANG: And he's doing an outstanding job.

23 And he's been here for six months?

24 MR. BECKER: Four.

25 MR. LANG: Four months.

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1 official.

2 COMMISSIONER KUNASEK: Can I have a
3 clarification, what's GRRC mean?

4 MR. LANG: It's Government Regulatory Review
5 Counsel. It's an agency that reviews rules.

6 COMMISSIONER KUNASEK: Thank you.

7 MR. LANG: And Commissioner Kunasek, our -- our
8 rules are not -- are exempt -- our rule making is exempt
9 from GRRC's normal reviews, but this was a special
10 five-year review. And so we asked GRRC to review them,
11 give us a five-year review and that's the process we're
12 going through now.

13 To update you on participation, we now have --
14 your numbers are inaccurate in my report -- it's now 108
15 participating candidates and it's going up every day.

16 And so we'll, of course, keep you up to date there.

17 Mike Becker traveled to Oak Creek last Saturday
18 to make a presentation to the League of Women Voters
19 there. I certainly enjoyed my trip when I went to
20 Prescott over a month ago and I -- I know Mike enjoyed
21 his trip.

22 Now, for the personnel update that you
23 requested. As you see in my ED Report, we have all our
24 current positions filled except the Deputy Director
25 position. That position is still outstanding and I am

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1 I've been here for six months and it
2 seems like a year. Paula Ortiz is our Executive
3 Assistant. She -- she runs the shop and she keeps us
4 going and she's been doing a great job. And she's been
5 here --

6 MS. ORTIZ: Five years. Since the admission of
7 the Commission.

8 MR. LANG: So, she's been here since the
9 beginning.

10 Colleen McGee is our Fiscal Services Manager.
11 She does our books, keeps everything running, and does
12 all our computer stuff as well. She is a real expert
13 and huge asset.

14 And Christina Murphy is our Administrative
15 Assistant. Christina put together the books you have
16 here. She keeps things running smooth and makes sure I
17 know that I have to let her know early enough so that
18 you get the information on time. And Christina is doing
19 a great job. She's also full of good ideas about how --
20 how we can make things more fun.

21 Cindy Stutesman is our Administrative Assistant
22 II. She's right there. And she's been doing a
23 fantastic job. Very professional and a very
24 professional face to our office. So, thank you, Cindy.

25 I would like to introduce you to our Deputy

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1 Director, but we don't have that person yet. So that's
2 where we're going next.

3 And then enforcement, I think we're done with
4 2004, but we received a complaint recently that was
5 dismissed because it didn't comply with our rules. So,
6 you never know, we may still get some more. There's
7 only two matters still pending.

8 That's where we are. That concludes my report
9 unless you have questions.

10 CHAIRPERSON BUSCHING: Do you recall whether
11 you're supposed to be reviewed after six months or do
12 you want to be reviewed after six months?

13 MR. LANG: You know, when the job offer was
14 given to me, I was on an airplane to Colorado and the
15 stewardess was yelling at me to put my phone away. And
16 I do recall some sort of mention of a review, but I --
17 frankly, I don't recall any specifics. But that will be
18 great.

19 CHAIRPERSON BUSCHING: Okay. If you will put
20 it in the agenda for the next meeting then --

21 MR. LANG: Okay.

22 CHAIRPERSON BUSCHING: -- we'll talk about it.

23 MR. LANG: It's not a stewardess, what's the
24 term now?

25 COMMISSIONER SCARAMAZZO: Flight attendant.

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1 report.

2 The report, as you know, was something we're
3 required to do every year and we have to do it at this
4 meeting and it summarizes our activities over the year.
5 It has a description of our enforcement activities over
6 the year, our education activities, our outreach and of
7 course financial situation, and projected funding. It
8 also includes a description of staff duties and frankly
9 it's a rather routine report. It's something we do
10 every year.

11 The Executive Summary, the only changes are
12 some corrections of typos and some additional
13 information regarding enforcement.

14 CHAIRPERSON BUSCHING: Okay. Are there any
15 questions of Mr. Lang?

16 Is there anyone from the public that wishes to
17 speak to this matter?

18 Any corrections or changes anybody wants to put
19 in? Mr. Lang.

20 MR. LANG: I believe that the biographies are
21 not up to date. The new biography -- we have a new
22 biography for the Chair, and I think the one in the book
23 is not the current one.

24 CHAIRPERSON BUSCHING: Yeah. Yeah, substitute
25 that.

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1 MR. LANG: Flight attendant. Thank you.

2 COMMISSIONER KUNASEK: You're dating yourself.

3 MR. LANG: Yes.

4 CHAIRPERSON BUSCHING: Are there any questions
5 of the Executive Director?

6 If not, we'll move to Item No. V, discussion
7 and possible approval of 2005 Citizens Clean Election
8 Commission Annual Report.

9 Mr. Lang.

10 MR. LANG: Let me pull out the report. Here we
11 go.

12 CHAIRPERSON BUSCHING: Did I see that we've got
13 a new Executive Summary to insert in that today?

14 MR. LANG: There is an Executive Summary, but
15 it should be tabbed right in front of the draft report.
16 The draft report is in yellow in my copy.

17 CHAIRPERSON BUSCHING: Right.

18 MR. LANG: And there should be a new Executive
19 Summary right in front of it that should be used to
20 replace it. It's right next to my Executive Director
21 Report. It looks like this.

22 CHAIRPERSON BUSCHING: Okay. Right.

23 MR. LANG: The summary just contains some
24 additional information, corrects some typos, that sort
25 of thing. So I suggest you look to that for your

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1 MR. LANG: And, similarly -- I think that's it.

2 CHAIRPERSON BUSCHING: Yeah. Okay. Ms.
3 Jolley?

4 COMMISSIONER JOLLEY: Yes.

5 CHAIRPERSON BUSCHING: The -- the staff did
6 hand out a new Executive Summary that basically is five
7 paragraphs. The first one is an introductory paragraph.
8 The second one is talking about the regulations and
9 telephone survey that was conducted. The third one was
10 -- third paragraph is dealing with the training classes
11 and workshops that were held. Fourth one dealt with the
12 complaints that were filed and how they were dealt with.
13 And the fifth one dealt with revenues. So, that was the
14 change from what was in the packets.

15 COMMISSIONER JOLLEY: Yes, I downloaded the
16 forms. I have them right in front of me.

17 CHAIRPERSON BUSCHING: Okay. Great.

18 All right. Are there any other changes
19 or corrections? Mr. Lang.

20 MR. LANG: Thank you, Madame Chair. In the new
21 Executive Summary, the word "Act" in the first sentence
22 on the second paragraph is in parenthesis. It should
23 not be.

24 CHAIRPERSON BUSCHING: Okay. Any other
25 comments, changes, corrections?

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1 If not, the Chair will entertain a
2 motion.

3 COMMISSIONER SCARAMAZZO: I'd move to approve
4 the 2005 Annual Report with the updates forthcoming on
5 the biography page and parenthesis taken out of the
6 "Act" on the second paragraph of the Executive Summary.

7 CHAIRPERSON BUSCHING: Okay. Is there a
8 second?

9 COMMISSIONER KUNASEK: I'll second.

10 COMMISSIONER JOLLEY: I'll second.

11 CHAIRPERSON BUSCHING: Okay. It's been moved
12 by Commissioner Scaramazzo and seconded by Commissioner
13 Kunasek that we approve the 2005 Annual Report with the
14 minor modifications.

15 All in favor, say "aye."
16 (Chorus of ayes.)

17 CHAIRPERSON BUSCHING: Opposed, nay?
18 Chair votes aye. Motion carries.

19 Item No. VI, discussion and possible action on
20 the following substantive policy statements. I assume
21 we should take all three of these together. A) No. 11,
22 reporting travel-related expenditures; B) No. 12,
23 allocation of campaign expenses between campaign- and
24 non-campaign-related travel; C) No. 13, use of privately
25 owned airplanes, motor vehicle, accommodations.

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1 Mr. Lang.

2 MR. LANG: Thank you, Madame Chair. As you
3 will recall in our last meeting, the Commission
4 considered these new substantive policy statements
5 regarding -- primarily motivated by the use -- the
6 issues regarding the use of airplanes. We heard
7 testimony from the public and some of those folks are
8 here again today, and that's certainly appreciated.

9 What you have before you are a few of the --
10 the versions that were proposed. Version A, the first
11 one, is the combined reimbursement option. That's the
12 option that we recommend -- that I recommended last
13 meeting. Since that time -- or actually at that
14 meeting, there were also comments which are separate in
15 your packet. They're actually further back. We'll see
16 one that's called Version C, which is the comments by
17 Phil Corbell. Those regard incorporating reference to
18 FAA regulations. And then there's a version by Kim
19 Demarchi. That's the version that's in purple and
20 green.

21 And -- and Kim Demarchi's version takes the
22 combined option, which is the option of giving you the
23 two choices how to calculate either nautical miles or
24 rental value. And then what she's done is changed Part
25 12. She's changed Part 12 to delete the calculation of

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1 a combined campaign stop. And so that if -- if a trip
2 has dual purposes, you can allocate that stop to both
3 campaign purposes and non-campaign purposes, so long as
4 -- and you will see in the green language in the
5 provision -- at least 50 percent of that has to be
6 counted as campaign purpose.

7 And as you'll recall, the reason for that is to
8 avoid the temptation that candidates might come up with
9 superfluous reasons for stopping just to be able reduce
10 the amount of campaign stops. So if you have that mixed
11 purpose, at least 50 percent has to count as campaign
12 purposes. Ms. Demarchi is here and I'm sure she'd be
13 happy to comment.

14 Where we are now is, you will also recall that
15 you heard a number of comments from Richard Mays.
16 Richard Mays is here again today regarding his concerns
17 about these proposed rules. And, in fact, I think the
18 Commission was ready to go ahead and take action and
19 adopt the Demarchi Version or the combined version, but
20 because of Mr. Mays' concerns we decided to table it.

21 Since that time, I've been working with Mr.
22 Mays and I have to thank him for all the time and effort
23 he's put into this to let us know of his concerns. And
24 you will have -- you also have his proposal. His
25 proposal would replace only Part 13(A) and (B), and the

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1 rest would remain the same in whichever version the
2 Commission wanted to adopt. And, again, he's here to
3 testify as well.

4 His version is at the end. It's a white
5 document that at the bottom says "Public comment of
6 Richard Mays." It's at the end of the -- it's right
7 after the League of Women Voters' letter. And, again,
8 in his proposal those provisions would replace 13(A) and
9 (B).

10 When it comes down to it, there are a number of
11 disagreements, but the primary disagreement was over
12 this issue of the FAA regulations as Mr. Mays and Mr.
13 Corbell and other pilots have told us. The problem is,
14 private pilots can't be compensated when they take --
15 when they take other folks on a flight. That would
16 violate their license, they would get them in big
17 trouble, and of course that was a very grave concern for
18 them.

19 The disagreement was over -- so, what we did,
20 the way Genevra and staff and I wrote the rule was,
21 well, okay, you have to count these values, but if for
22 some reason you believe the values are higher than what
23 is appropriate, you can remit the division to the fund
24 so that you're not being compensated. We felt that
25 solved the problem. Mr. Mays and others disagreed, so

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1 that's why we tabled it and that's why we're here.
 2 Since that time, I sought the advice and
 3 counsel of Tom Irvine who is here today and can testify
 4 if the Commission likes it. He is, of course, an
 5 experienced election lawyer but also he's been a pilot
 6 for 30 years -- for over 30 years, and has a great
 7 familiarity with the FAA regulations and its
 8 requirements. And he assures me that the concerns about
 9 -- about compensation, while understandable, are not
 10 ultimately a problem. And that our rules, if we adopt
 11 our versions, would not violate the compensation
 12 regulations of the FAA.

13 So, ultimately, that's where we are. The
 14 Commission needs to make a decision as to which version
 15 they would like to adopt. I can go over them with you,
 16 but ultimately my recommendation is that we adopt the
 17 combined option which gives folks the choice of either
 18 nautical miles or rental rate, along with Kim Demarchi's
 19 changes to Part 12 regarding the allocation of expenses.

20 But, Mr. Mays is here to discuss his version.
 21 His version, I think he would argue gives you a more
 22 realistic way of calculating the value of a flight. I
 23 think he thinks ours is both too high and too low. In
 24 other words, because it's 99 cents a nautical mile, in
 25 some cases you'll have planes not aren't worth anywhere

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1 near that, in other cases you will have planes that are
 2 worth much more than that. I think he would argue that
 3 his version is the better version because it more
 4 accurately reflects the value.

5 I think our version is workable and solves the
 6 problem for this election cycle. And if we determine
 7 it's not working, we can always change it after the next
 8 election cycle.

9 A few small changes I would suggest that we
 10 make to the version that I'm recommending. One is on
 11 Part 11(A)(1), and this was at the suggestion of Mr.
 12 Mays and I agree with him. I think we should strike the
 13 term -- you will see at 11(A)(1) it reads, "Travel
 14 expenses of candidate, spouse, and immediate family." I
 15 think after that we should strike the term, "When
 16 accompanying the candidate." Because of course a spouse
 17 can go on a campaign trip without the candidate just as
 18 easily as the spouse can go with the candidate. So, I
 19 think we should strike that to make it a broader --
 20 broader requirement.

21 And then the other is after (G) on Part 13.
 22 13(G) on the next page, you will see that that refers to
 23 banner ads. And the purpose that staff -- that we had
 24 when we put that in there was to make it clear that
 25 banner ads aren't subject to the provisions. That

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1 basically they're like billboards or anything else.
 2 Banner ads are expressed advocacy, they're not part of
 3 this rule.

4 But Mr. Mays pointed out that some folks may
 5 not understand that from the way it was written. And so
 6 what I would suggest is that we add a sentence that
 7 says, "Such activity is subject to normal reporting
 8 requirements as set forth in the applicable statutes and
 9 rules." Just for clarity. Just so it's very clear that
 10 those banner ads are basically any other expressed
 11 advocacy when they constitute expressed advocacy.

12 So, that's where we are. I would be happy to
 13 answer any questions or discuss it as you see fit.

14 CHAIRPERSON BUSCHING: Okay.

15 COMMISSIONER SCARAMAZZO: I'd like to hear from
 16 Mr. Mays again.

17 CHAIRPERSON BUSCHING: Okay. Is there -- are
 18 there members or the public that wish to speak to this
 19 matter?

20 Mr. Mays. Please, state your name.

21 MR. MAYS: My name is Richard Mays. I live in
 22 Fountain Hills and I'm a private pilot. Before I get on
 23 with my prepared comments, the last issue that he
 24 brought up regarding banner ads and banner towing, I
 25 just want to clarify. That I don't agree with it not

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1 being subject to these rules, because flying a banner is
 2 a commercial operation and your rules discuss commercial
 3 operations. And my issue with it is that when you fly a
 4 banner behind an airplane, it's a commercial operation.
 5 So it should apply to the commercial references that are
 6 in there.

7 I'm not here to discuss commercial, I'm here to
 8 discuss about the rights of private pilots. And I do
 9 have a prepared statement. I'll go ahead and read it.

10 CHAIRPERSON BUSCHING: Mr. Mays.

11 MR. MAYS: Yes.

12 CHAIRPERSON BUSCHING: We're going to keep this
 13 short.

14 MR. MAYS: Absolutely. It's one page, not even
 15 a complete page.

16 CHAIRPERSON BUSCHING: Thank you.

17 MR. MAYS: The proposal by staff in regards to
 18 private pilots is a bad policy. While the old policy
 19 prohibited private pilots' participation, the policy
 20 excludes most private pilots from participating in this
 21 current -- this proposal. This proposal by staff has
 22 the exact opposite effect for private aircraft as it
 23 does for any other private vehicle.

24 Unlike the requirements for every other private
 25 vehicle, here the minimum reimbursement rate excludes

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1 the rational use of aircraft smaller or more efficient
 2 than a king air. No participating candidate will be
 3 able to afford using a privately piloted small airplane.
 4 No non-participating candidate with limited resources
 5 will expend that much for travel in a small plane.
 6 99-and-a-half cents per nautical mile is an extreme and
 7 excessive amount for a campaign to pay for a seat in a
 8 small, single engine aircraft.

9 In addition, the licensed pilot of the airplane
 10 will still, in addition, be required the pay their share
 11 of the expenses of that flight. This is as much as 10
 12 times the amount required for any other travel by any
 13 other vehicle. There is no rational basis for requiring
 14 candidates to pay the state reimbursement rate, when the
 15 state could never pay the reimbursement rate to a
 16 private pilot.

17 For serving as Commissioners, you are
 18 reimbursed for your travel expenses. If you were
 19 private pilots, you would not be allowed to receive that
 20 state reimbursement rate if you flew your own aircraft.
 21 The only candidates who will utilize a private aircraft
 22 are those with virtually unlimited funds. The campaigns
 23 that benefit from the new policy are those where the
 24 money is no issue. The ones that plan on exceeding the
 25 amount of -- the Commission can reimburse to opponents

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1 in the first place.

2 I came to this Commission in December asking
 3 you to revise your policy so that private pilots could
 4 participate. The re-worked policy may technically allow
 5 private pilots to participate, but you may as well hang
 6 a sign out that says, "No private pilots welcome."

7 In their honest and well-meaning attempt to
 8 level the playing field, the staff's recommendation
 9 misses the mark. Instead, it fairly assigns a value
 10 that does not really exist. Because of a general lack
 11 of understanding about the realm of private pilots, the
 12 staff's recommended policy instead of leveling the
 13 playing field, skews it in the wrong direction.

14 My amendment mandates that campaigns pay as
 15 much as they would be allowed to pay if the candidates
 16 were involved in any other business endeavor. My
 17 amendment requires the campaign to pay the real value of
 18 flying in a privately piloted aircraft. My amendment
 19 levels the playing field. Thank you.

20 COMMISSIONER SCARAMAZZO: Thank you.

21 CHAIRPERSON BUSCHING: Thank you. Are there
 22 any questions of Mr. Mays?

23 COMMISSIONER KUNASEK: I, you know, first day,
 24 I have no idea what the issues are all about. I would
 25 appreciate a time to study it a little more for myself.

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1 I have difficulty -- if I could as an aside editorial
 2 comment, there are no page numbers. It took me a couple
 3 of minutes to find where we were working in the -- in
 4 the thing. All of the various versions are stapled
 5 together. I didn't know if they were all part of the
 6 original. And so I'm going to beg for time.

7 CHAIRPERSON BUSCHING: Okay.

8 COMMISSIONER JOLLEY: Chair Busching?

9 CHAIRPERSON BUSCHING: Commissioner Jolley.

10 COMMISSIONER JOLLEY: Yes, I would like to hear
 11 from Mr. Irwin [sic] if he's available.

12 CHAIRPERSON BUSCHING: Okay. Thank you, Mr.
 13 Mays.

14 Mr. Irwin. [sic]

15 MS. VARELA: Irvine.

16 CHAIRPERSON BUSCHING: Please --

17 MR. IRVINE: Thank you.

18 CHAIRPERSON BUSCHING: -- state your name for
 19 the record.

20 MR. IRVINE: Tom Irvine. And I was contacted
 21 by your Executive Director to look at this. And as many
 22 of you know, Chairman and Members of the Commission, I'm
 23 an election lawyer, I've chaired the State Bar Election
 24 Seminar the last several times it's been offered, and I
 25 have also been a private pilot for over 30 years. And I

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1 have flown candidates around the state of Arizona,
 2 Republicans, Democrats, Partisan, Non-Partisan
 3 candidates for that 30 years. And I have been called
 4 upon to compute the in-kind contribution of flying my
 5 1957 Cessna around with a candidate in it.

6 So, for example, let me frame the issue because
 7 I think it's important to frame the issue. What you are
 8 regulating is the economic consequence of an in-kind
 9 contribution that would not normally be allowed of a
 10 Clean Elections' candidate, of a participating candidate
 11 because they cannot accept contributions.

12 And I think your old Statement 13 basically
 13 banned private pilots because they could not take a
 14 check. You could not buy that service because a private
 15 pilot could not be paid that service. So the issue is,
 16 how do you allow a participating candidate to accept an
 17 in-kind contribution of an airplane flight; the type of
 18 thing I've done hundreds of times for candidates over
 19 the years, or just getting in a plane and flying to
 20 Sedona for breakfast. How do you do that?

21 And so this proposal says you do that by having
 22 two ways to compute that. One way would be a rental
 23 rate. So, for example, you could call up Deer Valley
 24 Airport and say a Cessna 172 rents for \$70 an hour. So,
 25 if it's a two-hour flight, that's \$140 and two hours to

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1 wherever you might go. Or you could do it at 99 cents a
2 mile and that would be the economic consequence.

3 So, if candidate -- participating or non --
4 were to purchase that \$70-an-hour flight, that's \$140.
5 So, a candidate were to rent the plane, let's say, the
6 candidate is the pilot, they rent the plane, that's
7 \$140. But if I were to use my plane, it's still a \$140
8 to fly for the two hours or 99 cents a mile. So there's
9 that alternative.

10 So how do you -- this Statement 13 I think
11 balances the ability to private pilots to make donations
12 of their time with their privately owned aircraft, and a
13 way to make an economic consequence out of it for a
14 participating candidate. So, the participating
15 candidate would report \$140, the non-participating
16 candidate would report \$140.

17 Now, for the participating candidate, they
18 would have to either give me \$140 or pay some or all of
19 it into the fund. And as a private pilot, what I have
20 done for 30 years when I fly candidates, is I will send
21 the candidate initially by mail, then by fax, and now by
22 e-mail a note saying that I flew a Republican candidate
23 for Secretary of State to Yuma and that's \$250 as an
24 in-kind contribution. And I would send that to the
25 candidate. It's the candidate's job then to report it.

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1 Now, what would happen is I wouldn't take the
2 money, because I'm donating my time to a candidate I
3 like. So, that candidate, if it was a participating
4 candidate under Statement 13, would send the proposed
5 either A or D -- if I have the nomenclature correct --
6 would send that money to the fund. A non-participating
7 candidate would report on their next filing an in-kind
8 contribution from me of \$250.

9 So, that levels the playing field, I believe,
10 between participating and non-participating candidates.
11 And you are regulating the economic consequence of an
12 in-kind contribution. You are not -- and I suggest
13 should not be -- trying to apply FAA regulations.

14 So, what I've suggested to Mr. Lang is it would
15 be a mistake for you to reference FAA regulations
16 because you would then have trials in front of this
17 Commission about what an FAA regulation might mean.

18 So, my first read on this was that there was no
19 problem with the FAA regulations. And I did research
20 them. And yesterday I was provided a letter that Mr.
21 Mays received from Monroe Balton, regional counsel of
22 the FAA. And his letter, which should be in your
23 record, basically agrees with what I told Mr. Lang two
24 weeks ago; that the Statement 13, Draft A or D, is not a
25 violation of FAA regulations.

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1 And you don't need to get into being a trial
2 court for the FAA regulations. You are regulating the
3 consequence of an in-kind contribution. So, if a pilot
4 wants to be paid, a pilot should get a commercial
5 license. If a pilot wants to make a donation to a
6 campaign for a participating or non-participating
7 candidate, either Version A or Version D accomplishes
8 that, I think, rather effectively offering two
9 alternatives.

10 One alternative is rental rate, the other
11 alternative is mileage. And that's fair. You could
12 have two, or three, or four, or five different rate --
13 different types of methodology, but you as policymakers
14 I think can choose two and that would even the playing
15 field for participating and non-participating
16 candidates. The two you have picked I think are easy to
17 apply and are easy to check; and that should be
18 important for candidates filing reports and should be
19 important to you as an enforcement agency.

20 I personally prefer Version D because of
21 Statement 12, it clears up what I thought was a rather
22 troublesome enforcement ambiguity in terms of that
23 multiple purpose stop for a candidate. Because I've
24 flown candidates who are, let's say, legislatures who
25 made a business stop for their legislative business and

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1 a campaign stop. And how do you deal with it? It's
2 very -- very -- Version A is more subjective. Version D
3 is more objective, I kind of like that.

4 I think the Statement 13, Version D, is
5 objective. It meets the FAA standards. I think it's
6 workable for a private pilot who's been reporting
7 in-kind contributions for many years. It's workable
8 from an Arizona Election Law Title 16's point of view.
9 And I think it's a reasonable accommodation for you as
10 policymakers to make having two alternatives, the rental
11 rate or 99 cents per mile.

12 And on the 99 cents per mile, addressing
13 something Mr. Mays said, if, let's say, Mr. Kunasek were
14 to have jumped in his plane in Flagstaff and had flown
15 to his meeting today, he could put in reimbursement from
16 the state and that would be 99 cents a mile. Just as if
17 he were to have driven. If he would have driven here
18 from Flagstaff, and that were his travel to the meeting,
19 he could put in reimbursement of whatever the state
20 mileage rate is, 40 cents a mile or whatever it might
21 be. So, that's the state rate as I understand it.

22 So, it's a fair accommodation in a regulatory
23 sense. And I think as a pilot who has struggled with
24 this, I would never accept money from a candidate and
25 never have, because I'm making a contribution. But I

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1 can't make a contribution to a participating candidate,
 2 and so this now would allow me to make a contribution to
 3 a participating candidates. And I would accept no money
 4 but the fund would get \$250. So --

5 It's a nice balance, because right now the
 6 non-participating could accept the in-kind contribution
 7 and under the current Statement 13, a participating
 8 candidate couldn't. And the economic consequence of
 9 participating candidate not having air travel, I think,
 10 is not proper under the current rules.

11 One last thing. As I said, I've been a private
 12 pilot for 30 years. I have -- I just want to tell the
 13 Commission -- I have let my medical laps because of some
 14 knee problems, but by midyear I'll have a new medical
 15 and be back in the air. So, I would suggest Version A
 16 or Version D is legal pursuant to the FAA, is a
 17 reasonable policy choice from somebody who has to deal
 18 with election law. And I think you can enforce it. I
 19 think us practitioners could deal with it.

20 And it would, as Mr. Lang said, get us through
 21 this cycle reasonably and allow participating and
 22 non-participating candidates to take advantage of
 23 volunteer private pilots in a fair and reasonable way.
 24 So --

25 CHAIRPERSON BUSCHING: Thank you. Just to

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1 regulation.

2 CHAIRPERSON BUSCHING: Okay.

3 MR. IRVINE: That's the way I read it.

4 CHAIRPERSON BUSCHING: All right.

5 MR. IRVINE: Which was my opinion two weeks
 6 ago.

7 CHAIRPERSON BUSCHING: It's nice to be
 8 reaffirmed by the FAA.

9 MR. IRVINE: Keeps my license intact too.

10 CHAIRPERSON BUSCHING: Any other questions --

11 MR. IRVINE: Both licenses, law and pilot.

12 CHAIRPERSON BUSCHING: -- for Mr. Irvine?

13 COMMISSIONER JOLLEY: Chair Busching?

14 CHAIRPERSON BUSCHING: Yes, Commissioner
 15 Jolley.

16 COMMISSIONER JOLLEY: Yes. I just have one
 17 question. So, Mr. Irvine is saying we not elude to any
 18 FAA regulations in our statement policy that we are
 19 contemplating of adopting eventually?

20 MR. IRVINE: That -- that is correct. And I
 21 think in the two versions that we are talking about,
 22 there is no reference to an FAA regulation. Because if
 23 you say we will comply with a CFR, a FAA regulation,
 24 you're then going to have people arguing before you in
 25 enforcement actions about what that means.

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1 clarify, when you say "Version D," are you referring to
 2 the version that is on our sheets labeled version,
 3 "Public comment of Kim Demarchi"?

4 MR. IRVINE: Yeah, the one Mr. Lang sent me was
 5 labeled Version D and I think that was for Kim Demarchi.
 6 That's why I said it was Version D. That's what I got
 7 in e-mail about 10 days ago, so I think that's the one.

8 MR. LANG: I apologize to the Commissioners for
 9 that. Version D is Version Demarchi and is the purple
 10 and green version in your book.

11 CHAIRPERSON BUSCHING: Okay. All right. Good.

12 MR. IRVINE: If I can answer any other
 13 questions, I'm happy to try.

14 CHAIRPERSON BUSCHING: I guess I also don't see
 15 here in my materials the letter that you received from
 16 the FAA.

17 MR. IRVINE: Well, the letter, Chairman, is --
 18 is -- it was sent -- it's addressed to Mr. Mays and it
 19 was sent to him, I believe, yesterday or the day before
 20 by Monroe Balton. And I think Mr. Lang has it.

21 MR. LANG: I don't think it's in your packet
 22 because we got it yesterday.

23 MR. IRVINE: If you want to make copies and
 24 pass it out, because it -- it basically says: Dear Mr.
 25 Mays, there's no problem under the FAA with the proposed

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1 You are regulating the economic consequence of
 2 a volunteer in-kind contribution. You are not trying to
 3 keep a pilot properly licensed --

4 COMMISSIONER JOLLEY: Okay.

5 MR. IRVINE: -- is my point.

6 COMMISSIONER JOLLEY: Thank you.

7 CHAIRPERSON BUSCHING: Okay. Any other
 8 questions for Mr. Irvine?

9 Is there anyone else from the public that
 10 wishes to speak?

11 I think Ms. Brewer stood up first.

12 MS. BREWER: Thank you, Madame Chairman and
 13 Members of the Committee. I'm Jan Brewer and I'm a
 14 candidate for Secretary of State. I am here today after
 15 reviewing the proposals, of which I must admit, are not
 16 real clear in my mind. I couldn't blend and I was -- I
 17 tried my best.

18 But from today's testimony, we talk about
 19 people donating their time and volunteering their time.
 20 My concern is about a candidate, if it were to be me and
 21 I were a pilot, I don't see that being addressed in the
 22 issue. If I am -- if I am the pilot and I am the
 23 candidate, I don't know where that is addressed in the
 24 proposals.

25 And maybe someone can clarify that for me. And

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1 who would they -- who would they make their contribution
2 to? Where would it go? And what fee? Participating
3 and non-participating.

4 CHAIRPERSON BUSCHING: Mr. Lang?

5 MR. LANG: Madame Chair, Commissioners,
6 Secretary Brewer, we attempted to address your question
7 in 13(A) which addresses a candidate who owns a private
8 airplane and uses it for campaign purposes. It says
9 that they shall be reimbursed by the campaign at the
10 state mileage reimbursement rate or at the airplane
11 rental rate. So, they do have to, if they own their
12 airplane, say Secretary Brewer, if you owned your own
13 airplane, you would have to then be reimbursed from the
14 campaign and for the use of the plane. And you could
15 chose how to do that, either at the 99-and-a-half cents
16 a mile, or if that's burdensome for whatever reason, you
17 can do the rental rate.

18 MS. BREWER: And that is which version?

19 MR. LANG: That's in all the versions.

20 MS. BREWER: That's in all the versions.

21 MR. LANG: Yeah, that's in 13. It's not in Mr.
22 Mays' version, his is different. But it's in all the
23 versions that, you know, are in this sort of style.

24 MS. BREWER: That was my question.

25 CHAIRPERSON BUSCHING: Okay. Do you have any

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1 accept fees for certain things, it's primarily fuel and
2 oil and maybe some other ancillary expenses.

3 As far as 99 cents per mile, that is way more
4 than probably, you know, the average pilot would have
5 expenses, as far as expenses. I happen to fly a
6 six-place airplane myself, and on the average -- I'm
7 probably more the higher end -- it's probably on the
8 average of maybe 30 to 40 cents per mile. And that also
9 varies with how many people you are carrying, you know,
10 how far you fly, how much fuel you burn, et cetera.

11 So in the case of being reimbursed myself, if I
12 say, well, give me 90 cents or whatever it is. The FAA
13 is going to take a look at, if you're outgoing expense
14 is 40 cents; 40 cents, you know, from 90 cents, there's
15 about 50 cents, that's 50 cents profit. You are
16 operating for hire. Unless you're licensed to do
17 that -- a lot of other regulations -- and I think that's
18 -- that's where the concern comes in from, you know,
19 private pilots.

20 COMMISSIONER KUNASEK: Would that also be a
21 concern that the FAA might interpret that 50 cents as
22 something you're just pocketing and not counting it
23 as --

24 MR. CHAUZA: That's hard -- that's hard to
25 tell. They're very specific as far as you cannot fly

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1 other comments on the policy generally?

2 MS. BREWER: I don't.

3 CHAIRPERSON BUSCHING: Thank you.

4 MR. LANG: Thank you.

5 CHAIRPERSON BUSCHING: Anyone else from the
6 public that wishes to speak?

7 Sir, come forward and state your name,
8 please.

9 MR. CHAUZA: Ed Chauza from Mesa, Arizona, 6751
10 East Manning Street.

11 I represent many pilots from Deer Valley
12 Airport and I happen to be the president of the Aircraft
13 Owners and Pilots Association up there. There's one
14 little catch-22 here. I think no pilots' said own
15 aircraft and maybe addressing the concern Ms. Brewer
16 has. Pilots have to adhere to the FAR's just like any
17 other professional person's license requirement and
18 stuff.

19 In the case of a pilot owning his own airplane
20 and doing campaigning, if he goes out and flies himself
21 or say somebody else, well he can choose this 99 cents
22 per mile, that's -- that's where the problem comes in.
23 Because the FAA is very specific on what private pilots
24 -- when I say "private pilots," that is a classification
25 of pilots versus commercial. The private pilot can only

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1 for hire under a private pilot.

2 CHAIRPERSON BUSCHING: Sir, I -- I -- I mean,
3 we know that the IRS says that automobile reimbursement
4 for business purposes, it's 48-and-a-half cents. When
5 they compute that, they take into consideration not only
6 the cost of gas and oil, but also the depreciation, and,
7 you know, maintenance of the car and everything like
8 that.

9 And I assume that when the state came up with
10 99.5 cents, they also figured in more than just the gas
11 and oil, but, you know, depreciation, maintenance, and,
12 you know, storage facilities, hanger fees. That kind of
13 thing that goes along with owning and operating an air
14 craft.

15 So, I guess, I'm -- I'm unclear as to why those
16 additional costs are not reasonable costs to be factored
17 into owning and operating and the air craft.

18 MR. CHAUZA: You know, I'm sure you're quite
19 right that those factors went into this. But, like I
20 said, the FAA is very specific in what you can count,
21 you know, as far as being reimbursed for. And it's
22 pretty much gas and oil. It could be maps in some case.

23 As far as amortization on your airplane, hanger
24 fees and things, no, that doesn't count. That's why I
25 say they are very specific. And most private pilots,

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1 they won't -- they won't take the risk because to get a
 2 private pilot's license anymore, you know, the initial
 3 investment is probably \$10- to \$15 thousand. By the
 4 time you get hours in, it's like a doctor practicing or
 5 something. You know, you get hours, you get so many
 6 years of practice, that means a whole lot. Well, that's
 7 the same thing in a pilot's career. He gets so many
 8 hours of operating different types of aircraft.

9 Say myself, I've been flying for probably
 10 upwards of 20 years. I'm well over a hundred thousand
 11 dollars investment just, you know, in time in my log.
 12 I'm not going to risk that being taken away from me just
 13 over, you know, you know, a 40-cent operation and
 14 somebody wants to give me, you know, one dollar.

15 CHAIRPERSON BUSCHING: Have you had an
 16 opportunity to read the FAA's letter?

17 MR. CHAUZA: No, ma'am. No, I haven't gone
 18 through and read the complete --

19 CHAIRPERSON BUSCHING: Perhaps you could also
 20 take a look at it and see if you -- if you have any
 21 further thoughts on it. After you do that, you know,
 22 give us some input.

23 MR. CHAUZA: I'd be very happy to.

24 CHAIRPERSON BUSCHING: Okay. Meanwhile, is
 25 there anyone else from the public that wishes to speak?

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1 My concern is a different one. The Clean
 2 Elections' system as with all election laws is obviously
 3 designed to ensure fair reporting in expenditures so
 4 that there can be some kind of a fair playing field
 5 among candidates. And requiring candidates to report
 6 and pay for their campaign funds for their travel
 7 expenses is a part of that.

8 But in our Clean Elections' system with limited
 9 funds, a rule that requires candidates to pay the full
 10 cost of a trip, even where that trip is for multiple,
 11 legitimate purposes, runs the risk that our candidates
 12 will have to spend far more of their campaign funds than
 13 we want them to be spending on travel. Because part of
 14 what we want the Clean Elections' system is obviously is
 15 to get them out meeting the voters. That's why we have
 16 candidate forms. That's why we have \$5 signature
 17 requirements.

18 My proposal is that a candidate that has a
 19 legitimate reason to travel somewhere in the state, both
 20 for a campaign and a non-campaign purpose, be permitted
 21 to share the cost of the travel between the campaign and
 22 between whatever the other legitimate purpose is.

23 I recognize that there's a possibility for
 24 abuse. That's where the 50 percent comes in. The idea
 25 being that even if only 15 percent of your time there is

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1 Ms. Demarchi.

2 MS. DEMARCHI: Good morning, Madame Chair,
 3 Commissioners. My issue in this regard is somewhat
 4 different. I'm sorry, I should introduce myself. My
 5 name is Kim Demarchi. I'm an attorney at Lewis & Roca.
 6 I'm primarily a litigator but I also practice election
 7 law and I work with variety of candidates and political
 8 committees. And I don't fly small planes and, honestly,
 9 you'd have to pay me more than the reimbursement rate to
 10 get me up in one. So, I'm not much of an expert on
 11 that.

12 I do think though that what Mr. Lang has called
 13 the combined option which is reflected both in Option A
 14 in your packet and in the option that he's kindly
 15 designated Option D with my name, what that does is give
 16 the candidate two choices for reimbursement, an actual
 17 cost method and a per-mile method. That if I'm
 18 understanding it correctly, combined with the option to
 19 return monies to the fund rather than paying them to a
 20 pilot, pretty much solves concerns that pilots ought to
 21 have about putting themselves in jeopardy. If they need
 22 actual cost and if they need not to take money, the
 23 policy does seem to provide for those options. Though,
 24 I'd defer to Mr. Irvine on this because he actually
 25 flies in these planes.

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1 spent on campaign purposes, we're going to make the
 2 campaign pay half, because we're going to create a
 3 disincentive for creative scheduling. We don't want
 4 candidates stacking up their agendas with other purposes
 5 to try to keep their campaign costs low.

6 But, in a setting of limited funds,
 7 particularly as you look at down ballots, statewide
 8 campaigns, mine inspector candidates, Secretary of State
 9 candidates who don't have a significant amount of money
 10 to spend, this is a move to conserve our campaign funds,
 11 which really here are the tax payers' money, and to make
 12 sure they can be used effectively for candidates to get
 13 out and meet their constituents to be.

14 COMMISSIONER SCARAMAZZO: Thank you.

15 CHAIRPERSON BUSCHING: Are there any questions
 16 for Ms. Demarchi?

17 MS. DEMARCHI: Thank you very much.

18 CHAIRPERSON BUSCHING: Thank you.

19 Anyone else from the public wish to
 20 speak?

21 MR. MAYS: May I?

22 CHAIRPERSON BUSCHING: No.

23 MR. MAYS: Just a short explanation.

24 CHAIRPERSON BUSCHING: All right. Mr. Mays.

25 MR. MAYS: I'm sorry. I've heard all the

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1 comments, they're new information in this whole process,
 2 but let me -- Ms. Demarchi really hit on something.
 3 They want to make the cost of travel commiserate with
 4 the fact that we have Clean Elections and they're
 5 limited campaigns. It costs too much to travel by
 6 airplane under your guys' proposal.

7 The difference between my proposal and the
 8 Commission's proposal, my proposal requires a candidate
 9 to reimburse someone for the actual economic activity
 10 that occurs. The Commission's proposal -- the staff's
 11 proposal -- requires an arbitrary value to be assigned
 12 an economic value instead of an actual economic
 13 activity.

14 I've stretched the rules as far as I can to
 15 allow -- to not allow a campaign to borrow someone's
 16 aircraft to fly it so they can fly for free. But
 17 everyone that comes into a race brings with them
 18 particular attributes. An attorney runs for office, he
 19 has an advantage over someone in a campaign who's not an
 20 attorney. An accountant, a Web developer, a private
 21 airplane pilot. We're going to bring assets to our
 22 campaigns that maybe someone else doesn't have. And my
 23 proposal requires the actual economic activity that
 24 would occur be reimbursed and paid for by the campaign.

25 The attribute, the fact that I own an airplane

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1 very legitimate concern raised by Mr. Chauza, which is
 2 he doesn't want to jeopardize his license and neither do
 3 the pilots with whom he, you know, works on these
 4 issues. I certainly understand that and that's why we
 5 spent so much time working on this.

6 The bottom line though is if you look at 13(A),
 7 it does give the rental rate. But then keep in mind
 8 again in the last sentence of 13(A), "If the candidate
 9 is not able to be reimbursed for actual use of aircraft,
 10 then the payment should be remitted to the fund."
 11 That's the key provision that protects -- that we
 12 believe protects pilots.

13 I talked to Mr. Irvine, I asked for his advice
 14 on that, he agreed that that would not constitute
 15 compensation that would jeopardize a private pilot's
 16 license, which is a very particular license which has
 17 very significant restrictions on payment. That's why
 18 these provisions are throughout the proposal. It's to
 19 protect the pilots.

20 It's my understanding that the FAA gave formal
 21 advice to Mr. Mays that that's the case. I'm not sure
 22 that they would agree, I think the pilots who are here
 23 today would not necessarily agree with that. But the
 24 bottom line is we believe we're on solid ground
 25 regarding that. So I would suggest you move forward and

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1 and I'm not allowed to be reimbursed for use of the
 2 airplane, why do we create an economic value when we
 3 don't require an attorney to be paid full value when
 4 they participate, or an accountant, or Web master, or an
 5 IT consultant, or receptionist who answers the phones?

6 When you assign an economic value to the
 7 activity that I do as a private pilot, you remove the
 8 fact that I am a volunteer for a campaign.

9 I've come to you asking for me to be able to
 10 volunteer. For a candidate to be able to participate
 11 and to bring their attributes. In no other line, in no
 12 other endeavor does this Commission require the
 13 attributes that a single person brings to the campaign
 14 be compensated. Thank you.

15 CHAIRPERSON BUSCHING: Thank you, sir.

16 Any other members of the public wish to
 17 speak?

18 Mr. Lang, we'll turn to you.

19 MR. LANG: Thank you, Madame Chair,
 20 Commissioners.

21 I'm sorry, your name, sir?

22 MR. CHAUZA: Chauza.

23 MR. LANG: Chauza?

24 MR. CHAUZA: Right.

25 MR. LANG: I wanted to respond to the, I think,

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1 adopt this policy.

2 We do not need to adopt the policy today, if
 3 possible. That's my recommendation anyway. Because the
 4 old proposal -- the old version, we all agree regardless
 5 of the issues of what we're trying to do here today,
 6 agrees the old rule simply doesn't work for private
 7 pilots.

8 So my suggestion is that we -- that the
 9 Commission adopt whichever policy they deem appropriate
 10 and I continue to work on this with Mr. Mays and others
 11 and we can always come back to the Commission with
 12 improvement. But in the meantime, I would suggest that
 13 the Commission adopt the Demarchi proposal which is the
 14 one that is purple and green.

15 CHAIRPERSON BUSCHING: Okay.

16 COMMISSIONER KUNASEK: Mr. Lang, let me present
 17 a scenario. I own an airplane but I'm not a pilot. If
 18 I use my airplane, I have to go hire a pilot. How is
 19 that addressed in these regulations?

20 MR. LANG: Well, the way the regulations work,
 21 Mr. Commissioner -- Commissioner Kunasek, is that it's
 22 based on the use of a plane. So it would be -- that
 23 would be a different scenario. The bottom line is the
 24 use of the plane is what we're regulating and that was
 25 what we require reimbursement under part B. A volunteer

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1 who donates the use of the airplane to a campaign has to
 2 be paid.
 3 COMMISSIONER KUNASEK: But if I want to use my
 4 airplane and I have to hire a pilot, can that be
 5 construed to mean that the use of the airplane includes
 6 use of a pilot?
 7 MR. LANG: That's -- that's our intent, but
 8 perhaps Mr. Irvine --
 9 MR. IRVINE: Yeah, Chairman and Members, I
 10 think the way it would work is you pay 99 cent a mile or
 11 the rental rate for the plane. And then check written
 12 to the pilot would be an expenditure that would be
 13 reported. So, there would be two --the way it's written
 14 now, that would be the two things.
 15 So, the plane would have the economic
 16 consequences set forth in Statement 13 and the check to
 17 the pilot would be just like any other check the
 18 campaign would write as an expenditure.
 19 CHAIRPERSON BUSCHING: Thank you.
 20 Mr. Lang, from a format standpoint, I see
 21 that in some cases we have like one's underneath As, and
 22 yet we have no B's or no two's or anything. Is that our
 23 typical formatting procedures or should that be --
 24 MR. LANG: I'm sorry?
 25 CHAIRPERSON BUSCHING: Under -- I'm looking at

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1 the Demarchi Version --
 2 MR. LANG: RIGHT.
 3 CHAIRPERSON BUSCHING: -- and we have 11 and
 4 then we have A, and then we have a one under A, but no
 5 two --
 6 COMMISSIONER KUNASEK: Or B --
 7 CHAIRPERSON BUSCHING: -- or no B.
 8 MR. LANG: I think that's, if you see, if you
 9 look at the edits in the right column, Madame Chair --
 10 CHAIRPERSON BUSCHING: Uh-huh.
 11 MR. LANG: -- you will see that part two is
 12 deleted. So we just deleted part two, so that's why the
 13 numbering seems odd.
 14 CHAIRPERSON BUSCHING: Shouldn't we clean that
 15 up?
 16 MR. LANG: Sure.
 17 CHAIRPERSON BUSCHING: Because I think it
 18 raises confusion if we have one's with no two's and A's
 19 with no B's and -- generally from a formatting
 20 standpoint.
 21 MR. LANG: We could format that.
 22 COMMISSIONER KUNASEK: On that point, if we
 23 could expand -- I came out of a long number of years in
 24 the legislature and this is totally foreign to me. Are
 25 these -- are these rules already in place someplace else

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1 or all these all brand-new?
 2 MR. LANG: Madame Chair, Commissioner Kunasek,
 3 these -- what you see here, for instance, if you are
 4 looking at the purple and green version, the lettering
 5 in black is the original version.
 6 COMMISSIONER KUNASEK: Original from what?
 7 That's my question.
 8 MR. LANG: It was adopted by the Commissioners
 9 back in 2002.
 10 COMMISSIONER KUNASEK: So these come from
 11 someplace else --
 12 MR. LANG: Yes.
 13 COMMISSIONER KUNASEK: -- basically.
 14 MR. LANG: Yes.
 15 COMMISSIONER KUNASEK: And we're modifying
 16 those that came back from someplace else in some
 17 fashion?
 18 MR. LANG: That's right.
 19 COMMISSIONER KUNASEK: That's where my
 20 confusion comes in.
 21 CHAIRPERSON BUSCHING: And to give you
 22 background, Commissioner Kunasek, the Commission
 23 operates under statutes, rules -- that have been
 24 approved by the Secretary of State, of course, or our
 25 filed with the Secretary of State -- and then the

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1 Commission also has some what they call substantive
 2 policy statements, which are not rules, per se, but have
 3 been approved by the Commission as sort of the way that
 4 they're going to interpret various rules.
 5 And, Diana, you can help me out on this if I
 6 misstate it. And these in 11, 12 and 13 are part of the
 7 substantive policy statements that we have on
 8 implementation of the rules.
 9 Is that a fair statement?
 10 MS. VARELA: Uh-huh.
 11 COMMISSIONER KUNASEK: I guess mine goes to
 12 style more than policy or other statements, operational
 13 habits, or traditions. I just, like I said, this is
 14 very confusing. And it is my first meeting, so I'm
 15 entitled to be confused.
 16 MR. LANG: Madame Chair, Commissioner Kunasek,
 17 we'd be happy -- this was an attempt to add clarity --
 18 clearly, it didn't work -- because we wanted you to see
 19 all the changes. What we can do in the future is simply
 20 do it like a legislature bill.
 21 COMMISSIONER KUNASEK: Scratch and highlight?
 22 MR. LANG: Right. We'd be happy to do it that
 23 way --
 24 COMMISSIONER KUNASEK: Well, I mean I've just
 25 believe --

<p style="text-align: right;">Page 50</p> <p>1 MR. LANG: If that's what the Commission 2 prefers. 3 CHAIRPERSON BUSCHING: I don't feel strongly 4 one way or the other. 5 And I realize how difficult it is coming into 6 this Commission, because there's just a whole lot to 7 learn and I've been spending the last three years 8 learning. So I appreciate the difficulty. And feel 9 free to jump in with questions and help us clarify 10 anytime. 11 COMMISSIONER KUNASEK: I'm not bashful. 12 CHAIRPERSON BUSCHING: What's the pleasure of 13 the Commission? 14 COMMISSIONER JOLLEY: Chair Busching? 15 CHAIRPERSON BUSCHING: Commissioner Jolley. 16 COMMISSIONER JOLLEY: Yes, I have a question. 17 Now, if this were to be adopted for any reason today, do 18 we still have to wait 60 days to get more public comment 19 or have we completed the public comment? 20 CHAIRPERSON BUSCHING: Ms. Varela. 21 MS. VARELA: You would be done today. Because 22 it's not a rule, it doesn't follow the same procedures. 23 If you adopt it today, it could go into effect. 24 Because, effectively, you've asked for the 25 public comment, you've received public comment, that was</p>	<p style="text-align: right;">Page 52</p> <p>1 the Commission, is that because candidates in the past 2 have raised concerns about the unworkability of the 3 current statement. So, it can -- it can be raised in a 4 variety of ways. 5 I think a lot of times it's going to come from 6 candidates themselves who say: I don't like this, I 7 like this, but let's tweak it a little bit. Or the 8 Commission can decide, based on past experience or 9 whatever, you know, we need to take a look at this rule 10 or this substantive policy statement again. 11 So they're -- they can, I guess, always be 12 subject to review if somebody raises the issue and the 13 Commission decides that it wants to review that 14 particular rule or policy statement. 15 CHAIRPERSON BUSCHING: And logistically a lot 16 of times, the things first get raised by either a phone 17 call or something that the staff finds out about; you 18 know, either reporting or questions or discussions in 19 the workshops or whatever. And as a result of staff 20 getting some question or comment, then staff will bring 21 it to the Commission and that's how it gets on our 22 agenda. 23 Other comments or questions? 24 If not, the Chair will entertain a 25 motion.</p>
<p style="text-align: right;">Page 51</p> <p>1 the purpose for my understanding, my recollection, is 2 that that was the purpose for tabling it from the last 3 meeting. 4 CHAIRPERSON BUSCHING: Okay. Any other 5 comments or questions? 6 COMMISSIONER KUNASEK: What do we call this? 7 MS. VARELA: It's a substantive policy 8 statement. 9 CHAIRPERSON BUSCHING: 11, 12 and 13 is where 10 it fits in. 11 COMMISSIONER KUNASEK: And we operate on policy 12 statements, rules, and statutes? 13 MS. VARELA: And statutes, yes. That's 14 correct. 15 COMMISSIONER KUNASEK: How then if there's a 16 question of interpretation on a policy statement, where 17 is that question raised and taken? 18 MS. VARELA: It can be brought to the 19 Commission. I guess it depends on who raises the 20 question. 21 COMMISSIONER KUNASEK: Anybody. A member of 22 the public. 23 MS. VARELA: It can be brought before the 24 Commission. I think that's how this issue -- how the 25 issue that you're now looking at has even come before</p>	<p style="text-align: right;">Page 53</p> <p>1 COMMISSIONER KUNASEK: Madam Chair, I request 2 to be excused from voting. First meeting, just coming 3 into this, I request to be excused from voting. 4 CHAIRPERSON BUSCHING: Okay. Not a problem. 5 COMMISSIONER SCARAMAZZO: I think you have some 6 legitimate questions and concerns, Commissioner, and I 7 would -- you know, I don't see this as being so onerous 8 we have to deal with this today. In deference, I would 9 be willing to make a motion to table this and give you 10 time to go ahead and catch up on it for the next 11 meeting, if that would -- if that would suit your needs. 12 COMMISSIONER KUNASEK: Give me a little better 13 comfort level. 14 CHAIRPERSON BUSCHING: Okay. There's been a 15 motion to table this. Is there is a second? 16 COMMISSIONER KUNASEK: Since I didn't ask to 17 vote, I don't feel I'm qualified. 18 COMMISSIONER JOLLEY: Chair Busching? 19 CHAIRPERSON BUSCHING: Commissioner Jolley. 20 COMMISSIONER JOLLEY: Yes. My question is, I 21 guess, would there be difficulty if we tabled it to 22 March 30th? We're meeting again in a couple of weeks. 23 CHAIRPERSON BUSCHING: Mr. Lang? 24 MR. LANG: Madame Chair, Commissioners, I still 25 recommend that you proceed simply because -- and I</p>

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1 understand Commissioner Kunasek's concern, and certainly
2 appreciate he was only sworn in yesterday and only
3 received his materials yesterday. So, I know that's a
4 tough situation. But, statewide campaigns are active
5 now and I would imagine folks are using planes.

6 Now, is it essential now as it will be in June?
7 Well, of course not. But campaigns -- campaigns are
8 active, and so I would suggest that you proceed in
9 enacting these rules but we can certainly wait until
10 March 30th.

11 CHAIRPERSON BUSCHING: I guess I would, with
12 all due regard to Mr. Kunasek, if we can approve a
13 policy, I think that it would behoove us to approve a
14 policy today. Because one of the things that has
15 subject -- we have been subject to criticism in the past
16 is changing rules midstream. And the further along we
17 get into the election cycle, the more we're going to be
18 subject to that kind of criticism.

19 And I -- perhaps we can talk through and see if
20 among the three remaining Commissioners there's a lot of
21 disagreement over what should be adopted. Because if
22 there isn't, then it may -- it may not make any
23 difference whether we have the additional Member voting
24 or not, or additional two Members for that matter.

25 Are you willing to withdraw your motion for the

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1 CHAIRPERSON BUSCHING: Any further discussion?

2 As long as you agree to that --

3 COMMISSIONER SCARAMAZZO: I agree. You bet.

4 CHAIRPERSON BUSCHING: -- to the amendment to
5 the motion.

6 COMMISSIONER SCARAMAZZO: That's perfectly
7 agreeable.

8 CHAIRPERSON BUSCHING: Okay.

9 COMMISSIONER JOLLEY: I will second that.

10 CHAIRPERSON BUSCHING: Okay. It's been moved
11 by Commissioner Scaramazzo and seconded by -- I seconded
12 it, that we table this and have an interim meeting to
13 address it within the next -- prior to the next
14 regularly-scheduled meeting and hopefully within a
15 10-day time frame.

16 Any further discussion? If not, the Chair will
17 call for the question, all in favor say "aye."

18 (Chorus of ayes from Commissioner Scaramazzo
19 and Commissioner Jolley.)

20 CHAIRPERSON BUSCHING: Chair votes aye. Motion
21 carries.

22 COMMISSIONER SCARAMAZZO: Thank you.

23 CHAIRPERSON BUSCHING: The next item on the
24 agenda is Item No. VII, discussion and possible action
25 on 2006 Citizens Clean Election Commission survey

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1 moment?

2 COMMISSIONER SCARAMAZZO: No, I'm still looking
3 for a second. If not, that will answer it.

4 CHAIRPERSON BUSCHING: Commissioner Jolley,
5 what's your preference?

6 COMMISSIONER JOLLEY: Well, I -- I feel the
7 same as you do, because we got campaigns that have
8 started and we've got people that will be using the
9 airplane. And what happens in April, we change the
10 policy and where do we go from there?

11 CHAIRPERSON BUSCHING: I suppose another
12 alternative would be to schedule an interim meeting, a
13 short interim meeting and bring up this issue.

14 MR. LANG: That's a good idea.

15 CHAIRPERSON BUSCHING: Would that --

16 COMMISSIONER SCARAMAZZO: That would be --

17 CHAIRPERSON BUSCHING: -- make sense?

18 COMMISSIONER SCARAMAZZO: -- more acceptable.
19 You bet.

20 CHAIRPERSON BUSCHING: Okay. Well, if we're
21 willing to meet like in a week or 10 days -- I mean,
22 probably 10 days to give time for notice and
23 everything -- then I'd be willing to second your motion
24 to table it.

25 COMMISSIONER SCARAMAZZO: Okay.

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1 performed by Behavioral Research Center.

2 Mr. Becker.

3 MR. BECKER: Thank you, Madame Chair and
4 Members of the Commission. In front of you in your
5 packets you have the completed survey that the Behavior
6 Research Center put together on behalf of the
7 Commission.

8 As you can see, we aren't doing that bad at all
9 when it comes to Clean Elections and getting the
10 information out to them. Among voters, those
11 individuals that are out there voting on a consistent
12 basis, we are doing very well. They are very familiar
13 with us and that is a good sign. The problem we have is
14 that half of the heads of households in Arizona do not
15 know anything about Clean Elections or are very
16 unfamiliar at the most. So, we do still have a lot of
17 work to do.

18 We are moving forward with plans, campaign
19 plans to get out the ideas of the \$5 donations. And we
20 are, myself and Mr. Lang, are out meeting with
21 constituents out in the public. Meeting with League of
22 Women Voter groups and things like that. We are moving
23 forward and still have a lot of things to do. We are
24 moving in the right direction as you can see in the
25 survey.

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1 I'll be happy to answer any questions if you
 2 have any.
 3 CHAIRPERSON BUSCHING: Any questions of Mr.
 4 Becker?
 5 Is there any member of the public that wishes
 6 to speak to this matter?
 7 Mr. Becker, I have a question. Our next item
 8 on the agenda is to act on a possible Hispanic voter
 9 education campaign.
 10 MR. BECKER: Uh-huh.
 11 CHAIRPERSON BUSCHING: And I've noticed that
 12 you did do this survey to break the ethnicity down into
 13 Caucasian, Hispanic, and other. And I did note that the
 14 Hispanic population seems to be not as familiar with --
 15 with Clean Elections.
 16 And I was just wondering if that's been true in
 17 prior surveys or do you have any recollection of -- of
 18 the situation on what's happened with prior surveys or
 19 have we ever broken it down in that fashion before?
 20 MR. BECKER: Madame Chair, Members, I don't
 21 know off the top of my head. I would have to do some
 22 digging on the previous surveys that were conducted to
 23 get that information to you.
 24 CHAIRPERSON BUSCHING: Okay. Any other
 25 questions or comments?

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1 COMMISSIONER SCARAMAZZO: What are the
 2 different strategies involved with trying to bring
 3 people more up to speed with Clean Elections in the
 4 rural areas, rather than the metro areas with the media
 5 available in the metropolitan area?
 6 MR. BECKER: Madame Chair, Members of the
 7 Commission, when it comes to rural areas, we're looking
 8 for any and all help we can get. We're more than happy
 9 to go out and meet with individuals and groups, as I've
 10 done, going out to Kingman for workshops for different
 11 candidates and treasurers. As far as specific
 12 strategies, no, we don't have any specific targeted
 13 strategies for the areas, the rural areas as far opposed
 14 to the metropolitan areas.
 15 COMMISSIONER SCARAMAZZO: How about outreach on
 16 the Indian reservations?
 17 MR. BECKER: Madame Chair, Commissioner, we
 18 have not even thought about that at this point. That is
 19 a good idea and something we need to look into and move
 20 forward with.
 21 CHAIRPERSON BUSCHING: Okay.
 22 COMMISSIONER JOLLEY: Chair Busching?
 23 CHAIRPERSON BUSCHING: Commissioner Jolley.
 24 COMMISSIONER JOLLEY: Yes, I have a question
 25 for Mr. Becker. Could it be also that the situation

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1 with the state legislature that we just did possibly
 2 would be getting more newspaper or news -- oh, what am I
 3 trying to say -- getting more political background in
 4 the news because of that situation where out in the
 5 rural areas probably didn't have as much coverage?
 6 MR. BECKER: Madame Chair, Commissioners, that
 7 is very possible. I don't know for a fact but that is
 8 very possible, yes.
 9 CHAIRPERSON BUSCHING: Mr. Becker, when do you
 10 anticipate the next survey to be or is there anything
 11 scheduled at this point?
 12 MR. BECKER: Madame Chair, Commissioners, at
 13 this point we have not gotten anything scheduled. In my
 14 own tentative plans, I'm looking for the next survey to
 15 be conducted probably in December or January of '07,
 16 December '06 or January '07. Right around the same time
 17 as this one went into effect.
 18 CHAIRPERSON BUSCHING: So we can see the
 19 results of the election and if that helps bring up
 20 awareness as well?
 21 MR. BECKER: Exactly, yes.
 22 COMMISSIONER KUNASEK: You bring up the
 23 partisanship issue. What is the relative registration
 24 figures for Democrats and Republicans now?
 25 MR. BECKER: Madame Chair, Commissioner

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1 Kunasek, off the top of my head, I don't know the exact
 2 numbers. I do know Republicans still outnumber
 3 Democrats in the state. That number has been dwindling
 4 year after year, but I don't know the exact numbers
 5 right now.
 6 COMMISSIONER KUNASEK: There's virtually a
 7 two-to-one difference there. That's what I'm wondering,
 8 is the one party just not doing the job, is that it?
 9 MR. BECKER: Madame Chair, Commissioner
 10 Kunasek, I do not know. I do not know what the parties
 11 are doing as far as their outreach.
 12 CHAIRPERSON BUSCHING: I think somebody from
 13 the public may be able to answer your question,
 14 Commissioner.
 15 MS. LUBIN: Commissioner, I'm Barbara Lubin of
 16 the Clean Elections Institute. And while I think it's
 17 really terrific both from your standpoint and from our
 18 standpoint as advocates and from the Institute's
 19 perspective that of those who know, are familiar with
 20 Clean Elections, that 84 percent feel positively. And
 21 at the high ethnicity voters -- well that's 85 percent
 22 and 84 percent. That's really great.
 23 What does continue to be frustrating is only 50
 24 percent of the people know what Clean Elections is. So,
 25 we've been battling this for years and years and trying

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1 to figure out what the explanation is. I -- we just
2 heard a few weeks ago that someone who was speaking to a
3 political organization in the Sedona area, most of
4 people there didn't know what Clean Elections is.

5 And I think part of the explanation is that so
6 many people are moving to this state and then other
7 people are moving away. So, while we may have educated
8 people in the past who are residents, they now are no
9 longer residents in Arizona and we've got new people
10 that come in. So, I think that plays part of it.

11 And I really do believe that this -- with this
12 next election cycle, particularly with all the
13 statewide's on and people going out there and asking for
14 all these \$5 contributions, that that will probably
15 increase the knowledge of Clean Elections.

16 One thing with tracking the numbers of the
17 candidates that are running under as participating
18 candidates, currently it's about 56 percent, I believe.
19 And that's about a little more than we were at this same
20 time in past elections. So, I think that -- it's a
21 tough thing to sell. You can't sell and explain it in a
22 sound bite, and that's -- that can be a challenge. And
23 I think that, once again, when there's people that are
24 running for office and explaining the system as they're
25 asking for \$5 qualifying contributions, that that would

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1 increase.

2 And Commissioner Kunasek, you asked how many
3 with the voter registration difference was, I don't know
4 the percentage, but I believe there's 110,000 more
5 registered Republicans in the state than there are
6 Democrats. And, of course, the Independents are
7 probably the fastest growing group. That's what we
8 always hear.

9 So, it's always a struggle. And if someone has
10 some great ideas, that will be good. And as far as
11 reaching out on the Native American reservations, the
12 Institute has attempted to do that and is still
13 continuing to do that.

14 COMMISSIONER SCARAMAZZO: Thank you.

15 CHAIRPERSON BUSCHING: Thank you. Any
16 questions of Ms. Lubin?

17 If not, I wanted -- I asked to have this on the
18 agenda just because I wanted to highlight the results
19 and make sure that as Commissioners we were all aware of
20 what was going on and what the surveys were finding, but
21 I don't know that we specifically need any action taken
22 on it unless you do, Mr. Becker.

23 MR. BECKER: No, Madame Chair.

24 CHAIRPERSON BUSCHING: Okay. There's someone
25 else I guess that --

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1 MS. SMYTH: Can I just make a comment really
2 quick, just for one of the questions.

3 I'm Meredith Smyth with Off Madison Avenue, the
4 marketing agency who helps with your campaign.

5 You asked what efforts we are putting forth in
6 rural areas. We do have -- we are planning on doing a
7 radio campaign and I wanted to list the rural areas that
8 it will be targeting. We'll be reach the: Pinal
9 County, Florence, Casa Grande, Apache Junction, Yavapai
10 County, Prescott, Yuma, Coconino County, Flagstaff,
11 Navajo Nation, Cochise County, Bisbee, Sierra Vista,
12 Mojave, Apache County, St. Johns, Eagar, Navajo Nation,
13 Gila County, Globe, Apache Reservation, Santa Cruz, New
14 Gallas, Graham County, Safford, Navajo County, Holbrook,
15 Winslow, Show Low, Apache, Hope, and Navajo
16 Reservations.

17 We do have efforts out there in addition to
18 statewide online banner campaign. And in addition to
19 that, we will have television which reaches the entire
20 state as well. So, there are efforts out there, active
21 efforts. We do recognize that we do need to do some
22 grassroots efforts as well. And for that speakers
23 bureaus are planned.

24 And one of the challenges with speakers bureau
25 is obviously staffing and having enough people go out to

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1 all over the state. So, we're currently researching
2 volunteer opportunities and how much we can do with
3 getting -- enlisting other groups across the state to go
4 out and speak on behalf of Clean Elections. So, they're
5 are some grassroots efforts, they's just in the process
6 of being developed right now.

7 COMMISSIONER KUNASEK: Question. How long has
8 Clean Elections been a fact of life?

9 MS. SMYTH: 1988.

10 COMMISSIONER KUNASEK: 1988.

11 MS. SMYTH: No, 1998.

12 MR. LANG: November of 1998.

13 COMMISSIONER KUNASEK: So, you have been
14 through, what, three election cycles now? Or four?

15 CHAIRPERSON BUSCHING: Three.

16 COMMISSIONER KUNASEK: That's not a bad track
17 record.

18 MS. SMYTH: And to be honest --

19 COMMISSIONER KUNASEK: With all the new people
20 moving in, still very young.

21 MS. SMYTH: And from a statewide media campaign
22 perspective, from a budgeting perspective, we are
23 working with limited resources and funding for that.

24 And I think having 50 percent say that they are strongly
25 aware of Clean Elections is actually a pretty good

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1 statistic.

2 CHAIRPERSON BUSCHING: For some background, the

3 Commission is, as you might have seen in the Annual

4 Report, the Commission is required to spend 10 percent

5 of it's annual cap on revenue for voter education

6 pursuant to statute. And in 2005 the Commission spent

7 \$1,400,080 or 9.1 percent of the amount.

8 And in order to spend that amount we spend it

9 in three general areas: One is we have hired Off

10 Madison Avenue, and Off Madison Avenue helps with --

11 we've done some radio spots, we've done some advertising

12 spots, as I understand it for 2006, we're also going to

13 do some Internet ads and some print spots; we also do

14 candidate workshops for voter education and candidate

15 education; we do speakers bureau as was mentioned.

16 Go ahead.

17 MS. SMYTH: We're in the process of also a

18 two-sided, you know, English and Spanish piece was

19 developed in 2005, and we're in the process of making a

20 general list that can be sent out to as a direct mail

21 campaign. Direct mail is extremely expensive from a

22 postage standpoint, so if we can mail that in bulk to

23 areas that can distribute it for us is one of the grass

24 roots efforts we are looking into as well.

25 CHAIRPERSON BUSCHING: And then we also do the

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1 candidate pamphlet that we send out to every household

2 that lists the candidates and their individual

3 information about their campaign and such. So we also

4 outreach and provide voter education in that regard as

5 well.

6 MS. SMYTH: I think also in that, public

7 relations is a very strong effort and, you know, getting

8 information out to the news and the media through that

9 vehicle is also --

10 CHAIRPERSON BUSCHING: Exactly. We do a fair

11 number of media releases, letters to the editor, things

12 like that.

13 COMMISSIONER KUNASEK: Thank you.

14 CHAIRPERSON BUSCHING: And Off Madison Avenue

15 has now been with us for two years --

16 MS. SMYTH: Uh-huh.

17 CHAIRPERSON BUSCHING: -- as I recall. And I

18 think overwhelmingly we've been feeling that they've

19 been doing an excellent job. We appreciate their

20 services.

21 MS. SMYTH: Appreciate that. Any other

22 questions?

23 CHAIRPERSON BUSCHING: Any other questions?

24 If not, we'll move to the next item on

25 the agenda, Item VIII, discussion and possible action on

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1 2006 Hispanic voter education campaign.

2 Mr. Becker.

3 MR. BECKER: Madame Chair, Members, in front of

4 you you have the proposal that myself and Off Madison

5 put together for the Hispanic outreach program. As we

6 all know, the Hispanic population in the United States

7 is growing rapidly, and particularly in Arizona one of

8 the fastest growing, if not the fastest growing

9 population in our state. We have not in the past that I

10 could find really taken a strong look at and gone out to

11 educate the Hispanic population.

12 This year I propose that we do go out and do

13 use the radio, the TV, Spanish language newspapers to

14 get our message out there to educate the Hispanic

15 population and make sure that everybody is aware that

16 their voice can be heard with Clean Elections.

17 I'll be happy to answer any questions.

18 CHAIRPERSON BUSCHING: My question is, when the

19 overall budget was -- and Off Madison Avenue presented

20 their proposals for this year, was this a part of that,

21 or is this in addition to that, or are we taking money

22 out of that budget and allocating to this, or how does

23 this fit in?

24 MR. BECKER: Madame Chair, Members, this is in

25 addition to that budget. This was something that myself

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1 along with Todd Lang we thought of of something that we

2 need to get going with. And so we went to Off Madison

3 and said, what can we do that will give us the greatest

4 bang for our buck? And this is what they came up with.

5 But, unfortunately, this is in addition to the already

6 approved budget.

7 CHAIRPERSON BUSCHING: And would it fit within

8 our spending constraints?

9 MR. BECKER: Madame Chair, Commissioners, it is

10 my understanding it will fit. I believe Colleen McGee

11 would be better to answer that.

12 MS. MCGEE: It will. We have enough overflow

13 in the budget to handle this additional expense.

14 CHAIRPERSON BUSCHING: Okay. Are there other

15 questions for Mr. Becker or Ms. McGee?

16 COMMISSIONER SCARAMAZZO: Just a comment. I

17 think that's a good move and I appreciate that.

18 CHAIRPERSON BUSCHING: Is there anyone from the

19 public that wishes to speak to this matter?

20 Any other discussion among Commissioners?

21 If not, the Chair will entertain a

22 motion.

23 COMMISSIONER JOLLEY: Chair Busching?

24 CHAIRPERSON BUSCHING: Commissioner Jolley.

25 COMMISSIONER JOLLEY: Yes, I will make the

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1 motion that we adopt the Hispanic outreach program
 2 budget as stated by Mr. Becker and staff.
 3 CHAIRPERSON BUSCHING: Okay. Is there a
 4 second?
 5 COMMISSIONER KUNASEK: I will second it for the
 6 purpose of a question.
 7 CHAIRPERSON BUSCHING: Okay.
 8 COMMISSIONER KUNASEK: How will this \$135,000
 9 effect our already adopted budget?
 10 CHAIRPERSON BUSCHING: Mr. Lang, do you want to
 11 address that?
 12 MR. LANG: It's my understanding -- Madame
 13 Chair and Commissioners, it's my understanding that we
 14 have room in our budget under our education plan to do
 15 this and it won't adversely effect it at all.
 16 COMMISSIONER KUNASEK: So, you've already
 17 adopted an education that this will come out of?
 18 MR. LANG: This would be in addition, but it's
 19 my understanding there is room in the education budget
 20 to pay for this.
 21 MS. MCGEE: Right. We can take it out of our
 22 other operating money and move into the other education
 23 portion, so we do the money to cover this.
 24 COMMISSIONER KUNASEK: And we've already -- you
 25 have already adopted the operating?

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1 MS. MCGEE: Yes, they have. Yes, back in
 2 December.
 3 COMMISSIONER KUNASEK: Okay. Thank you.
 4 CHAIRPERSON BUSCHING: Perhaps do you want to
 5 give Mr. Kunasek a little bit of background on our
 6 budget, Ms. McGee?
 7 MS. MCGEE: We are going to meet with
 8 Commissioner after the commission meeting to go over --
 9 CHAIRPERSON BUSCHING: All right sounds good.
 10 MS. MCGEE: -- all the background, so as not to
 11 take up everybody else's time.
 12 CHAIRPERSON BUSCHING: All right. That sounds
 13 good. It's been moved by Commissioner Jolley and
 14 seconded by Commissioner Kunasek that we approve the
 15 proposed 2006 Hispanic Voter Education Campaign.
 16 Any further discussion?
 17 If not, the Chair will call for the question,
 18 all in favor say "aye."
 19 (Chorus of ayes.)
 20 CHAIRPERSON BUSCHING: Opposed, nay?
 21 Chair votes aye. Motion carries.
 22 Item No. IX, discussion and possible action on
 23 fair market value of candidate home office.
 24 Mr. Lang.
 25 MR. LANG: Thank you, Madame Chair. This

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1 question was raised by public comment in the last
 2 meeting and it's come up a few times in the educational
 3 efforts by Geneva Richardson and Mike Becker. So, I --
 4 we put it on the agenda for your information.
 5 Really there's no -- there's no particular
 6 issue here, it's just a matter of clarification and
 7 understanding. Our rules regarding the use of campaign
 8 funds, it's 702, discuss the proper use of campaign
 9 funds. And, basically, the bottom line is, you have to
 10 pay fair market value for the use of any item that you
 11 use in your campaign.
 12 That, of course, begs the question, how much is
 13 the coffee table at the far side of your kitchen that's
 14 half covered with your coffee maker and your other
 15 things, how much is that little space worth to the
 16 campaign? And, frankly, each campaign -- we've left it
 17 to each campaign to make a fair determination of fair
 18 market value. That frustrates some folks. And I think
 19 ultimately the question is raised for the Commission to
 20 consider.
 21 Given that if the folks really know -- we
 22 realize games can be played and people can call
 23 somewhere their home when it isn't, but if it's person's
 24 real home where they -- their residential address, where
 25 they spend the majority of the time, what's the fair

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1 market value for the use of the room for the campaign?
 2 And I think it would be fair to say that the
 3 fair market value in someone's personal home is really
 4 zero. Because they're not going to rent it out. No one
 5 is going to want to rent it out. And so I would suggest
 6 that the Commission give direction to staff on how they
 7 should instruct the public when this question is raised.
 8 You've heard my take on it.
 9 And, frankly, we've left it to the campaigns to
 10 make that determination. Like we have every other
 11 determination. We can't be out there telling them, well,
 12 here is the fair market value of signs, here is the fair
 13 market value of use of cars, whatever. But in this case
 14 we think because the question keeps coming up, it would
 15 be helpful to get some direction from the Commission.
 16 CHAIRPERSON BUSCHING: Okay. Anyone have any
 17 comments or questions for Mr. Lang?
 18 Someone from the public wishes to speak?
 19 MS. BREWER: Chairman Busching and Members of
 20 the Commission, I'm Jan Brewer, candidate for Secretary
 21 of State. This issue is, is very complicated because as
 22 we read the rules and try to go through as a candidate,
 23 it's just absolutely impossible. Because then we were
 24 told way back when I first ran, that you had to take the
 25 square footage of your house, divide what your mortgage

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1 payment was, and what the value of that space was, and
2 that is what you were going to be able to charge.

3 Then we got information, well, that wasn't
4 going to work out because that was really somewhat
5 unfair, because some people obviously own their home.
6 They don't owe anything on their houses, it's free and
7 clear. So, did that mean that their office space was
8 free and clear?

9 And then we said, okay, I, Jan Brewer, am
10 running my campaign on a card table underneath a tree
11 outside my house with my cell phone and my wireless
12 Internet, right? Or some people -- and most candidates
13 do a lot of their campaign work in their car. I mean,
14 today we're living in a completely different age.

15 And then if you go to the value of the house,
16 the total value of the house, people live in all
17 different kinds of values of houses. I mean, we've have
18 candidates that live in multi-million dollar homes, so
19 therefore, they couldn't ever, ever pay for the space in
20 their house office.

21 So, sitting back in the audience today, Madame
22 Chairman, and listening, we all have a home, we're all
23 running under Clean Elections, you know, let us use our
24 breakfast bar, let us use our card table in the corner
25 of the room, don't put us as candidates through all this

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1 multi-million dollar house or a lean-to in a backyard?

2 MS. BREWER: Madame Chairman, Members, yes.
3 Senator Kunasek -- you used to be my big boss, you
4 know -- Mr. President -- yes, I just think there's just
5 too many I's to dot and too many T's to cross. And
6 complaints for the Clean Elections Commission since
7 having been here they have just got complaints. Those
8 being filed frivolously, some not frivolous, but that
9 kind of thing that people keep playing with. In fact, I
10 have a solution for that on another day.

11 CHAIRPERSON BUSCHING: Well, stay for public
12 comment, okay?

13 MS. BREWER: Anyway, thank you.

14 CHAIRPERSON BUSCHING: Thank you.

15 MS. BREWER: Thank you for the time, Members.

16 CHAIRPERSON BUSCHING: Anyone else from the
17 public wish to address this matter?

18 MS. LUBIN: Barbara Lubin, Clean Elections
19 Institute. I just want to agree with Secretary Brewer's
20 comments. If it's just in your house, just let it go.

21 CHAIRPERSON BUSCHING: Okay. Well --

22 COMMISSIONER KUNASEK: So, probably should
23 adopt some finality if somebody turns in an expense item
24 for their house, they should have a policy here, or a
25 rule, or something like that to fall back on so the

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1 figuring out what we are going to use. It's virtually
2 impossible and what it does is it just sets up the
3 Commission for further and more complaints to answer.

4 I do believe, Madame Chairman, Members of the
5 Commission, that if they're renting office space or
6 they've got an office, then that's what they've chosen
7 to spend their money on. But generally speaking,
8 candidates that are running underneath anything other
9 than the governor, they don't have enough money. They
10 don't have enough money to rent space. They don't have
11 enough money to run their campaign basically with the
12 time and era we are in today.

13 So, I respectfully requesting you heed the
14 advice of your Director here. I think that's what you
15 said, let's just say, okay, your office is your house
16 and your house is your office, whatever you want to use,
17 go do it. I don't care.

18 I would appreciate your -- your consideration
19 of that. It's just --

20 COMMISSIONER KUNASEK: Madame Secretary and Mr.
21 Executive Secretary or Executive Secretary --

22 MR. LANG: Executive Director, but whatever you
23 want to call me is fine.

24 COMMISSIONER KUNASEK: What I hear you say is
25 advocating allowing no expense for anybody's

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1 staff has some support in what they're doing.

2 CHAIRPERSON BUSCHING: Mr. Lang, Ms. Verala,
3 what's your thoughts?

4 MS. VARELA: Well, I think that the Commission
5 could provide guidance. I think -- Commissioner
6 Kunasek, just in terms of the logistics, a rule is a
7 very lengthy -- I mean, if that's what how you want to
8 go, you --

9 COMMISSIONER KUNASEK: I'm familiar with that
10 process.

11 MS. VARELA: Okay. So, It's a very lengthy
12 process. And anything, if even you propose language
13 today, probably would not be that helpful to the
14 candidates for the next --

15 COMMISSIONER KUNASEK: For this policy.

16 MS. VARELA: -- several months, sure.

17 A substantive policy statement is kind of
18 the same. It's a shorter process, but I do think that
19 you can provide some guidance to staff just orally. And
20 if it's, you know, if the Commission votes on it, I
21 think that would be fine.

22 CHAIRPERSON BUSCHING: Would it be unreasonable
23 to add another item to the substantive policy statement
24 discussion and include this in there?

25 MS. VARELA: Well, you -- you couldn't include

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1 it. It's not on the agenda.
 2 CHAIRPERSON BUSCHING: I mean, we're going to
 3 have another meeting on the substantive policy
 4 statement.
 5 MS. VARELA: So to add it as a substantive
 6 policy statement?
 7 CHAIRPERSON BUSCHING: Right.
 8 MS. VARELA: You can do that. You can add it
 9 to objective for that.
 10 COMMISSIONER KUNASEK: But the discussion in
 11 open meeting today and the minutes, should give staff
 12 enough comfort to say if somebody turned in a request
 13 for that, you can say, no, it's been discussed and
 14 decided to do nothing, accept no expense statement. Or
 15 whatever, however they have to do it.
 16 CHAIRPERSON BUSCHING: Yep.
 17 Any other Commissioners wish to weigh in
 18 on this item?
 19 COMMISSIONER SCARAMAZZO: I just agree with
 20 common sense suggests that we just ignore this, do away
 21 with it, and change it.
 22 CHAIRPERSON BUSCHING: Okay.
 23 COMMISSIONER JOLLEY: Chair Busching, I agree
 24 the same. I think we should just state that it's going
 25 to be zero.

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1 CHAIRPERSON BUSCHING: Okay. Well, I think the
 2 -- Mr. Lang, you have the sense of the Commission at
 3 this point. And you can decide whether you think it
 4 should rise to the level of a policy statement or not.
 5 If so, we'll see it again. If not, we'll just go
 6 forward.
 7 MR. LANG: Madame Chair, just for clarity and
 8 for the record, it's my understanding that the
 9 Commission has instructed staff to advise candidates
 10 that if they deem the fair market value of their home to
 11 be zero, that we would agree that it's appropriate if
 12 that's their primary residence.
 13 MS. LUBIN: Zero for the use of the campaign.
 14 MR. LANG: For the campaign, yes.
 15 COMMISSIONER SCARAMAZZO: Correct.
 16 MR. LANG: At fair market rental value for use
 17 of the campaign is zero, that is appropriate.
 18 COMMISSIONER KUNASEK: Take that to the
 19 assessor and see how it flies.
 20 MR. LANG: Yeah, we just got that.
 21 CHAIRPERSON BUSCHING: I think that's a fair
 22 characterization of the comments of the Commission and
 23 public.
 24 MR. LANG: Thank you, Madame Chair.
 25 CHAIRPERSON BUSCHING: Thank you.

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1 We'll move on then to Item No. X,
 2 discussion and possible action of future meeting dates.
 3 I requested that this be put on the agenda because I
 4 thought at the time that I put it on the agenda we would
 5 have two new Commissioners here and I just wanted to
 6 start getting an initial sense from all of the
 7 Commissioners as we go into the heavy election period.
 8 And the way the Commission is going to operate,
 9 we'll probably be needing to have a meeting at least
 10 during the July/August time period of at least once a
 11 week. And so I wanted to alert the Commissioners to
 12 that fact. And, of course, as the current continuing
 13 Commissioners know, we routinely have people participate
 14 by telephone, so --
 15 COMMISSIONER KUNASEK: From Europe and other
 16 places?
 17 CHAIRPERSON BUSCHING: I actually attended a
 18 meeting from Cambodia, so --
 19 COMMISSIONER KUNASEK: Interesting.
 20 CHAIRPERSON BUSCHING: -- teleconferences
 21 stretch a long ways these days. And I know we've had
 22 participants from remote stretches of Mexico, and
 23 Montana, and other places as well. So, it's not a
 24 problem whether you're here in town or out of town, if
 25 you want to participate by phone, it's certainly

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1 allowable and we much prefer your participation by phone
 2 than -- than just being absent.
 3 But, in looking forward to the July/August and
 4 even into September/October time frames, I wanted to get
 5 input from staff as to if we were going to be meeting
 6 weekly, whether we want to -- whether staff thought it
 7 would be better to be setting up specific meetings in
 8 advance or whether we do it more on an ad hoc basis like
 9 we did it during the last election cycle.
 10 And if we were going to set up meetings in
 11 advance, if there's a day of the week that the staff
 12 prefers that makes it easier to get checks then cut and
 13 out as a result of the meetings? Just sort of have a
 14 dialogue about this issue and such.
 15 MS. MCGEE: From our standpoint as far as
 16 cutting the checks, Chair, midweek would work, because
 17 once you authorize matching funds it takes 24 hours for
 18 me to produce those checks to the candidate. So, if you
 19 have a meeting on Friday, then they'll have to wait the
 20 weekend and I wouldn't be able to produce that until
 21 Monday or Tuesday for them. If you meet in the earlier
 22 part of the week, it gives me the opportunity to get the
 23 candidate their check by the end of the week because of
 24 the 24- to 48-hour turnover time.
 25 MR. LANG: Sounds like Wednesday would be

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1 better?

2 MS. MCGEE: That would work for us.

3 CHAIRPERSON BUSCHING: All right.

4 MS. ORTIZ: If then we could still like in May,

5 Commissioners, propose -- right now we have scheduled

6 meetings until June. In May, we propose the six months

7 of the year for regularly schedule meetings.

8 CHAIRPERSON BUSCHING: Right.

9 MS. ORTIZ: And I'll work with each

10 commissioner on their schedule from July through the end

11 of the year to make sure that if we have to do an

12 emergency meeting, I know where to contact each one.

13 CHAIRPERSON BUSCHING: Right.

14 MS. ORTIZ: So we have at least a quorum.

15 CHAIRPERSON BUSCHING: Commissioner -- or

16 Executive Director Lang?

17 MR. LANG: I would suggest, and I understand

18 Paula's point, but I would suggest that Commissioners

19 schedule in at least biweekly meetings in August, and

20 with the understanding we'll probably need weekly

21 meetings. But you should schedule in for your purpose

22 of vacation and whatever, but you should plan on having

23 biweekly meetings in August.

24 Early voting begins August 10th, so there's

25 going to be matching funds issues before then. And

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1 certainly once early voting is underway, you're going to

2 see tons of stuff going on. And again, early voting

3 begins before the November election. When is it?

4 September 26? October 5th? Something like that. And

5 again, so, October, again, biweekly meetings in October

6 as well.

7 And again, with the understanding it may end up

8 being weekly. Because, Commissioner Kunasek, you don't

9 know this, but one of the rules requires the Commission

10 to approve matching funds in the unusual circumstance

11 where an independent expenditure committee has engaged

12 in expressed advocacy but has not reported it. In other

13 words, when games are being played by 527 corporations

14 or whatever.

15 In that situation, the Commission itself, you

16 know, the staff would make a recommendation, but

17 Commission would have to issue those matching funds.

18 That could even be more than weekly. I hope not, but

19 could be.

20 COMMISSIONER KUNASEK: If there are games being

21 played, maybe there should be some addressing of those

22 games. One of delay in reporting would be one of those

23 games and particularly close to election time. What

24 about just saying we will accept no matching funds

25 requests, or whatever it is, within 15 days, 30 days of

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1 the election? Anything that falls less than those,

2 whatever is decided to continue, I'm sorry, you're out

3 of luck.

4 CHAIRPERSON BUSCHING: The problem with that

5 is -- the problem with that is the matching funds -- I

6 mean, what happens is you have the expressed advocacy

7 being either for or against a candidate, and the

8 matching funds actually go to the opposite candidate.

9 COMMISSIONER KUNASEK: Opposite.

10 CHAIRPERSON BUSCHING: So, you know, the -- so,

11 you would be basically double penalizing the opposite

12 candidates if you did not --

13 COMMISSIONER KUNASEK: I understand. Give the

14 opposite candidate double then.

15 MR. LANG: We can talk -- Main has an

16 interesting proposal where they actually allocate money

17 ahead of time and don't let you spend it and then they

18 give you the green light, so that to avoid the game

19 playing. We can talk about all those options when we

20 meet with you outside -- outside the meeting.

21 There are a number of little plans we can have

22 to deal with expressed advocacy. The reason I raise

23 this issue, Commissioners, is so you understand that

24 we're going to be meeting a lot. You will be seeing

25 more of me than you'd like to in August.

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1 CHAIRPERSON BUSCHING: But for this current

2 election cycle, I mean, we really are going to start

3 changing --

4 MR. LANG: No. No.

5 CHAIRPERSON BUSCHING: -- the policy?

6 MR. LANG: There are things we can do.

7 CHAIRPERSON BUSCHING: Okay. Going forward

8 past this election cycle?

9 MR. LANG: Uh-huh.

10 CHAIRPERSON BUSCHING: Wish we would have

11 known that six months ago.

12 Well, does Thursday work for people generally?

13 I mean, having meetings on Thursday or is there any

14 preference?

15 I wish we had all the Commissioners here, but

16 is there any -- is there any strong preference on days

17 of the week? We have meetings scheduled right now

18 through -- May or June?

19 MS. MCGEE: June.

20 MS. ORTIZ: June.

21 CHAIRPERSON BUSCHING: -- June. And so after

22 that, do any of you have any preferences on days of the

23 week?

24 COMMISSIONER KUNASEK: I thought the report was

25 that Thursday would not be able to get the check cut and

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1 out to the candidate in a timely fashion.
 2 MS. ORTIZ: Thursday is fine. It's Friday is a
 3 delay. Thursday is fine.
 4 COMMISSIONER KUNASEK: I see. I misunderstood.
 5 CHAIRPERSON BUSCHING: And I think what she was
 6 talking about is the specific special meetings as
 7 opposed to the general regular meetings.
 8 COMMISSIONER KUNASEK: Thursday is as bad as
 9 Wednesday.
 10 CHAIRPERSON BUSCHING: Is there a better day?
 11 COMMISSIONER KUNASEK: No.
 12 COMMISSIONER SCARAMAZZO: Thursday works fine.
 13 COMMISSIONER KUNASEK: Either one. It's a
 14 pleasure.
 15 CHAIRPERSON BUSCHING: Why don't we tentatively
 16 look at a regular meeting scheduled for the second half
 17 of the year on Thursdays and we'll look for the special
 18 meetings to be on Wednesdays. And why don't we do a
 19 draft schedule and let people look at their specific
 20 calendars and see if there's specific days that that's
 21 not going to work. And then, perhaps, at the next
 22 regularly scheduled meeting at the end of the month, we
 23 can adopt some sort of tentative schedule subject to
 24 change.
 25 COMMISSIONER SCARAMAZZO: Sounds good.

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1 CHAIRPERSON BUSCHING: We certainly have not --
 2 Commissioner Kunasek, we certainly have been known to
 3 change our meetings based upon conflicts of the various
 4 Commissioners, and staff, and even third parties at
 5 times. So, the Commissioners have been very flexible
 6 and it's been much appreciated by all in the past.
 7 So, I don't think we'll take any action on that
 8 matter today. It's just trying to get input to provide
 9 staff so they can give us a proposal for next time.
 10 So with that, I'll move to Item No. 11, report
 11 on litigation for David Burnell Smith from Assistant
 12 Attorney General, Diana Varela.
 13 MS. VARELA: Thank you, Madame Chair and
 14 Commissioners. I'm sure you've all heard of the
 15 resolution of the David Burnell Smith case. Just to
 16 give you sort of a formal report from myself. At the
 17 last meeting as I was looking at the order that the
 18 Supreme Court issued, we were anxiously awaiting a
 19 decision from the Supreme Court.
 20 The Court of Appeals had affirmed the Superior
 21 Court's decision; actually, had issued a very lengthy
 22 opinion. Mr. Smith filed a Petition For Review and a
 23 Motion For Stay in the Supreme Court. And, again, that
 24 was -- all of those matters were handled on a very
 25 expedited basis.

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1 On January 16th, actually later in the day from
 2 the last meeting, the Supreme Court did issue its order.
 3 They found that Mr. Smith was not likely to proceed on
 4 the merits of his action. They denied his motion for a
 5 stay. They did -- they actually granted his Petition
 6 For Review and affirmed the judgment of the Superior
 7 Court. So, that's all we got that particular date. But
 8 the Supreme Court did say that a written opinion will
 9 follow. We have not received that yet. When we do, we
 10 will include it in the packet.
 11 And I think it's over. I mean, they've -- at
 12 least when we spoke to Mr. Smith's attorney, there did
 13 not seem to be any inclination to file something in the
 14 U.S. Supreme Court. So, I think we're done with Mr.
 15 Smith's matter.
 16 CHAIRPERSON BUSCHING: Okay.
 17 MR. LANG: Congratulations.
 18 CHAIRPERSON BUSCHING: Yeah, congratulations.
 19 Is there someone from the public that
 20 wishes to speak to this matter?
 21 MS. LUBIN: I just have a question. Part of --
 22 part of what the Superior Court decided was not only
 23 that he would have to vacate his office, but there were
 24 fines due, there was money that he had to pay. And I
 25 was just wondering how that was being enforced or if he

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1 voluntarily paid the funds?
 2 MS. VARELA: We're going to be working on that.
 3 No, he has not voluntarily paid those penalties.
 4 MR. LANG: It may have slipped his mind, so
 5 we'll remind him.
 6 MS. LUBIN: Just curious.
 7 CHAIRPERSON BUSCHING: Thank you. Item XII,
 8 call for public comment. This is the time for
 9 consideration and discussion of comments and complaints
 10 from the public. Action taken as a result of public
 11 comment will be limited to directing staff to study the
 12 matter, or rescheduling the matter for further
 13 consideration and decision at a later date, or
 14 responding to criticism.
 15 Is there anyone from the public that wishes to
 16 speak?
 17 Ms. Brewer.
 18 MS. BREWER: Madame Chairman, Members of the
 19 Commission. I'm Jan Brewer, candidate for Secretary of
 20 State. I was curious about the comments that were
 21 discussed in regards to travel as far as in your
 22 automobile. As an incumbent -- and there are several
 23 incumbents that are running -- we have our duties
 24 related to our job. And in my case -- and I will just
 25 speak to my experience -- that we have a huge

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1 Proposition 200 that's being instituted for the first
 2 time, voter ID at the poles. So it's my job as
 3 Secretary of the State to go out there and educate those
 4 people.
 5 The fact of the matter is, above and beyond
 6 that I go and do a lot of speaking engagements to notary
 7 and trademark and et cetera, et cetera, a lot different
 8 kinds of things that my office is involved in. And when
 9 I go on these -- these speaking engagements, they are my
 10 job-related duties. And if someone says to me or they
 11 say: And she's running for re-election. Or somebody
 12 says something back to me: Are you running for
 13 re-election? Or if the press arrives and says: Are you
 14 running for re-election? I'm going to talk to those
 15 people.
 16 Now, does that mean that I have to pay 50
 17 percent because it's something that I need -- I need it
 18 and assume all the other candidates would need that kind
 19 of information too -- because that seems like a really
 20 heavy, heavy penalty. If we're not going there to
 21 actually participate in -- in furthering our election,
 22 but we're there and people bring it to us. I mean, it's
 23 difficult, because you've got -- you've got rules
 24 written pretty specific for candidates, candidates,
 25 candidates. And it's hard to address it with

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1 incumbents. The governor of course is in the same
 2 situation. I would think probably more so than even I.
 3 But we need -- we need to have that pretty
 4 defined out so that we all know exactly which way we're
 5 going, because it happens. It just invariably happens.
 6 Because first and foremost, we're elected by the people,
 7 and when we go as an incumbent, we're there on state
 8 business. And then because it's an election cycle, the
 9 people out there are looking to support you and they
 10 automatically are going to ask you those kinds of
 11 questions. I hope that in the future somehow, somehow,
 12 at least that we would have some defined answer to it.
 13 But I sure as a candidate do not like the 50
 14 percent. I think that's way -- way overreaching.
 15 CHAIRPERSON BUSCHING: Thank you, Ms. Brewer.
 16 MS. BREWER: Self-serving maybe.
 17 CHAIRPERSON BUSCHING: As per our requirements,
 18 I will direct staff --
 19 MS. BREWER: Okay.
 20 CHAIRPERSON BUSCHING: -- to look into this
 21 matter and I certainly appreciate you coming and
 22 providing us with your perspective on it. It's very
 23 helpful.
 24 MS. BREWER: Thank you.
 25 COMMISSIONER KUNASEK: I have a question on

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1 that. What's the 50 percent pertain to?
 2 MS. BREWER: Well, they discussed when you were
 3 speaking about the -- oh, Madame Chairman?
 4 CHAIRPERSON BUSCHING: Can we allow her to
 5 respond?
 6 MS. VARELA: Yeah.
 7 MS. BREWER: Madame Chairman, Commissioner
 8 Kunasek, it's my understanding in there if you were an
 9 incumbent and were traveling and you went to point A and
 10 point B, and you did something for the state and the you
 11 stopped and did something for your campaign, then you
 12 would have to pay 50 percent of what the trip cost you
 13 to get from point A to B if any campaign activities were
 14 taken place.
 15 That means that if the trip cost me -- or cost
 16 the state a hundred dollars, then I would take the \$50,
 17 and I would have to pay -- I don't know quite who I pay,
 18 if I pay the Clean Elections or if I pay myself --
 19 because I traveled that far. I don't know exactly who I
 20 pay, but that's what they want.
 21 So then the state's paid a hundred dollars and
 22 then I've got \$50 out there that I have to accommodate
 23 to somebody for because maybe somebody was in the
 24 audience and said: And, hey, Jan Brewer is running for
 25 re-election, vote for her. Well, all of a sudden it's a

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1 campaign expense.
 2 Or if the press comes and talks to you and
 3 says: Are you running in the election? Jan Brewer
 4 served in office so many months, or years, or whatever.
 5 It's very, very dicy. But I don't think it's being an
 6 incumbent that we need to see the governor, and I, and
 7 the attorney general, and the superintendent of public
 8 construction, I think those are the four that are
 9 statewide --
 10 MR. LANG: Yes.
 11 MS. BREWER: That are running for
 12 re-election --
 13 MR. LANG: Corporation commission.
 14 MS. BREWER: Oh, corporation Commission -- be
 15 penalized to that extent that then all of a sudden, it's
 16 really -- I mean, we're in a state of confusion.
 17 So, if you would just consider those thoughts.
 18 I just thought of it when you were discussing it and I
 19 thought I would wait for public comment. Because it's
 20 not us, it's other people doing it to us.
 21 MR. LANG: Would the Commission like me to look
 22 into that?
 23 CHAIRPERSON BUSCHING: Yes, I would.
 24 MS. BREWER: Thank you, Madame Chairman --
 25 CHAIRPERSON BUSCHING: Thank you.

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1 MR. LANG: Thank you.
 2 MS. BREWER: -- and Members of the Commission.
 3 CHAIRPERSON BUSCHING: Okay. Any other members
 4 of the public wish to speak?
 5 If not, Item XIII, adjournment. The Chair will
 6 entertain a motion.
 7 COMMISSIONER KUNASEK: So moved.
 8 COMMISSIONER SCARAMAZZO: Second.
 9 CHAIRPERSON BUSCHING: It's been moved by
 10 Commissioner Kunasek and seconded by Commissioner
 11 Scaramazzo that we adjourn.
 12 All in favor say "aye."
 13 (Chorus of ayes.)
 14 CHAIRPERSON BUSCHING: Opposed, nay?
 15 Chair votes aye. Motion carries.
 16
 17 (Whereupon the meeting concluded at 11:35 a.m.)
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1 C E R T I F I C A T E
 2
 3 I, Angela Furniss Miller, Certified Reporter,
 4 do hereby certify that the foregoing pages numbered 1
 5 through 94, inclusive, constitute a full and accurate
 6 printed record of my stenographic notes taken at said
 7 time and place, all done to the best of my skill and
 8 ability.
 9 DATED, at Phoenix, this 15th day of March,
 10 2006.
 11
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 13
 14 Angela Furniss Miller, RPR
 15 Certified Reporter (AZ50127)
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